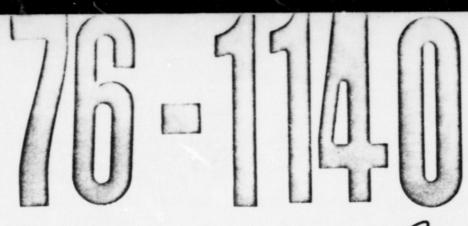
United States Court of Appeals for the Second Circuit



APPENDIX



IN THE UNITED STATES COURT OF APPEALS FOR THE SECOND CIRCUIT

DOCKET NO. 76-1140

UNITED STATES OF AMERICA PLAINTIFF-APPELLEE

V.

DAVID N. BUBAR, ET AL. STATES COURT OF APPL DEFENDANT-APPELLANT

OCT 6 1976

JOINT APPENDIX TO BRIEF

PART ONE OF FOUR

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RET HAVER CORR

FOR THE DISTRICT OF CONNECTICUT

UNITED STATES OF AMERICA

٧.

CRIMINAL NO. 11-75-59

CHARLES D. MOELLER,
DAVID N. BUBAR, AKA NOBLE DAVID BUBAR,
PETER BETRES,
RONALD D. BETRES,
ALBERT R. COFFEY,
ANTHONY A. JUST,
DENNIS C. TICHE,
MICHAEL J. TICHE,
JOHN W. SHAW AND
DONALD L. CONNORS

The Grand Jury Charges:

COUNT ONE

That commencing on or about the month of December, 1974, the precise date being to the Grand Jury unknown, and continuously thereafter up to and including the date of the filing of this indictment, in the District of Connecticut and elsewhere, CHARLES D. MOELLER, DAVID N. BUBAR, PETER BETRES, RONALD D. BETRES, ALBERT R. COFFEY, ANTHONY A. JUST, DENNIS C. TICHE, MICHAEL J. TICHE, JOHN W. SHAW, AND DOHALD L. CONNORS, defendants hereir, wilfully and knowingly did combine, conspire, confederate, and agree together and with each other and with diverse other persons to the Grand Jury unknown, to commit the following offenses against the United States of America:

1. To travel in interstate commerce between Butler, Pittsburgh, Boyers and New Kensington, all in the Commonwealth of Pennsylvania; and New York in the State of New York; and Shelton, Derby, Danbury and New Haven in the State of Connecticut, and to use facilities in interstate commerce, that is, the telephone, between Shelton, Derby, Danbury and New Haven, Connecticut, and Memphis, Tennessee, and Butler and Boyers, Pennsylvania, with the intent to promote, manage, carry on and facilitate the promotion,

of arson in violation of Section 53(a)--113, Connecticut General Statutes (Rev. 1958 as Amended), and did perform acts to promote, manage, carry on and facilitate the promotion, management and carryong on of such unlawful activity in violation of Title 18, United States Code, Section 1952 and 2.

- 2. To transport in interstate commerce, from Boyers in the Commonwealth of Pennsylvania, to Shelton in the State of Connecticut, explosives, that is, dynamite, detonating or primer cord and blasting caps, knowing and intending that the said explosives would be used unlawfully to damage and destroy a building on Canal Street, in Shelton, Connecticut, Known as Plant No. 4, Sponge Rubber Products Company, in violation of Title 18, United States Code, Section 844(d) and 2.
- 3. To use an explosive, that is, dynamite, detonating or primer cord and blasting caps, to commit the offense of interstate travel in aid of racketeering enterprises in violation of Title 18, United States Code, Section 1952, a felony prosecutable in a court of the United States, in violation of Title 18, United States Code, Section 844(h) and 2.
- 4. Maliciously to damage and destroy by means and use of explosives, that is, dynamite, detonating or primer cord and blasting caps, the building located at Canal Street, in Shelton, Connecticat, known as Plant No. 4 of the Sponge Rubber Products Company, said building then being used by Sponge Rubber Products Company, a division of Grand Sheet Metal Company, for the manufacture and sale of foam rubber products in interstate commerce, an activity affecting interstate commerce, in violation of Title 18, United States Code, Section 844(i) and 2.
- 5. To make a firearm, as defined in Title 26 United States Code, Section 5845(a)(8) and Title 26 United States Code, Section 5845(f)(1)(A), to wit: a destructive device consisting of dynamite, detonating or primer cord, blasting caps and gasoline, in violation of Title 26, United States Code, Section 5861(f) and Title 18, United States Code, Section 2.

firearm, as defined in Title 26 United States Code, Section 5845(a)(8) and
Title 26, United States Code, Section 5845(f)(1)(A), to wit: a destructive
device consisting of dynamite, detonating or primer cord, blasting caps and gasoline
which firearm had not been registered, in violation of Title 26, United States

Code 5861(j), and Title 18, United States Code, Section 2.

7. To receive and possess a firearm, as defined in Title 26
United States Code, Section 5845(a)(8) and Title 26 United States Code,
Section 5845(f)(1)(A), to wit: a destructive device consisting of dynamite,

7. To receive and possess a firearm, as defined in Title 20 United States Code, Section 5845(a)(8) and Title 26 United States Code, Section 5845(f)(1)(A), to wit: a destructive device consisting of dynamite detonating or primer cord, blasting caps and gasoline, in violation of Title 26, United States Code, Section 5861(c) and Title 18, United States Code, Section 2.

8. To receive and possess a firearm, as defined in Title 26, United States Code, Section 5845(a)(8) and Title 26, United States Code, tion 5845(f)(1)(A), to wit: a destructive device consisting of dynamite, detonating or primer cord, blasting caps and gasoline, which firearm was not registered in the National Firearms Registration and Transfer Record, in violation of Title 26 United States Code, Section 5861(d) and Title 18, United States Code, Section 2.

OVERT ACTS

In furtherance of the conspiracy, and to effect the objects thereof, the defendants did commit, among others, the following overt acts:

- a. In late December, 1974, or early January, 1975, DAVID N. BUBAR and PETER BETRES traveled from New York, New York, to Shelton, Connecticut.
- b. On or about February 17, 1975, DENNIS C. TICHE traveled from Boyers, Pennsylvania, to Shelton, Connecticut, and ANTHONY A. JUST traveled from New Kensington, Pennsylvania, to Shelton, Connecticut.
- c.' On or about February 20, 1975, DENNIS C. TICHE and JOHN W. SHAW arranged to purchase and did purchase and acquire drums for the purpose of transporting explosives and an accelerant from Boyers, Pennsylvania to Shelton, Connecticut.

app. 3

- d. On or about February 20 and February 27, 1975, DENNIS C. TICHE and JOHN W. SHAW purchased or obtained gasoline to be used as an accelerant.
- e. On or before February 27, 1975, DENNIS C. TICHE purchased and obtained dynamite, detonating or primer cord and blasting caps for use in igniting the accelerant.
- f. On or about February 27, 1975, DENNIS C. TICHE and others arranged to rent and obtained the use of an Avis Rental truck.
- TICHE, and JOHN W. SHAW prepared and loaded the explosives and accelerant aboard the Avis truck for transportation from Boyers, Pennsylvania, to Shelton, Connecticut.

h. On or about February 27, 1975, PETER BETRES arranged to have DONALD L. CONNORS drive the Avis truck loaded with the explosives and accelerant from Boyers, Pennsylvania, to Shelton, Connecticut, and paid to DONALD L. CONNORS a sum of money for his expenses and a sum of money for driving the Avis truck to Shelton, Connecticut, and back.

- i. On or about February 28, 1975, DONALD L. CONNORS drove the Avis truck from Boyers, Pennsylvania, to Shelton, Connecticut.
- j. On or about February 28, 1975, DONALD L. CONNORS made a telephone call from the State of New York to the State of Connecticut, in the course of which he received instructions as to the precise destination and the route; he was to follow thereto.
- k. On or about February 28, 1975, PETER BETRES traveled from Butler, Pennsylvania, to Shelton, Connecticut, and from Shelton, Connecticut, to New York, New York.
- 1. On or about February 28, 1975, DENNIS C. TICHE, MICHAEL J. TICHE and JOHN W. SHAW traveled from Pittsburgh, Pennsylvania, to New York, New York and thence to New Haven, Connecticut, and thence to Shelton, Connecticut.

m. On or about February 28, 1975, ANTHONY A. JUST, ALBERT R. COFFEY and RONALD D. BETRES traveled from Pennsylvania to Danbury, Connecticut, and thence to Shelton, Connecticut.

n. On or about March 1, 1975, DONALD L. CONNORS delivered approximately twenty-four (24) drums of gasoline and two (2) drums of explosives to Plant 4 of Sponge Rubber Products Company, Shelton, Connecticut.

o. On or about March 1, 1975, DAVID N. BUBAR arranged and facilitated the delivery of gasoline and explosives into Plant 4, Sponge Rubber Products Company, Shelton, Connecticut, and the entry thereinto of DENNIS C. TICHE,

p. On or about March 1, 1975, DAVID N. BUBAR, DENNIS C. TICHE,
MICHAEL J. TICHE, JOHN W. SHAW, ANTHONY A. JUST, RONALD D. BETRES and ALBERT R.
COFFEY were in Plant 4, Sponge Rubber Products Company. Shelton, Connecticut.

MICHAEL J. TICHE and JOHN W. SHAW.

q. On or about March 1, 1975, RONALD D. BETRES, ALBERT R. COFFEY and ANTHONY A. JUST abducted and removed from Plant 4, Sponge Rubber Products Company, Shelton, Connecticut, three persons employed thereat, to wit: ROY RANHO, ALFRED C. HANLEY and ROBERT V. DE JOY.

r. On or about February 10, 1975, February 28, 1975, and March 19, 1975, CHARLES D. MOELLER directed and authorized the payment of the sums of Twenty Thousand (\$20,000) Dollars and Fifteen Thousand (\$15,000) Dollars, and Fifteen Thousand (\$15,000) Dollars, moneys of Ohio Decorative Products, Inc., Grand Sheet Metal Company and/or Sponge Rubber Products Company, to Southern Supply Company, delivery of which was made to DAVID N. BUBAR.

s. On or about February 11, 1975, DAVID N. BUBAR paid and delivered to PETER BETRES a sum of money

t. On or about February 28, 1975, PETER BETRES delivered a sum of money to DENNIS C. TICHE.

- u. On or about March 1, 1975, DENNIS C. TICHE delivered a sum of money to MICHAEL J. TICHE and JOHN W. SHAW.
- v. On or about February 27, 1975, and March 3, 1975, PETER BETRES delivered a sum of money to DONALD L. CONNORS.

All in violation of Title 18, United States Code, Section 371.

COUNT. TWO

On or about February 28, 1975, in the District of Connecticut and elsewhere, DAVID N. BUBAR, PETER BETRES, DENNIS C. TICHE, MICHAEL J. TICHE, JOHN W. SHAW, RONALD D. BETRES, ALBERT R. COFFEY, ANTHONY A JUST, DONALD L. CONNORS and CHARLES D. MOELLER did travel and cause travel in interstate commerce between Butler, Boyers, Pittsburgh and New Kensington, all in the Commonwealth of Pennsylvania, and New York in the State of New York, and Shelton, Derby, Danbury and New Haven, in the State of Connecticut, and did cause to be used facilities in interstate commerce, that is, the telephone, between Shelton, Derby, Danbury and New Haven, Connecticut, and Memphis, Tennessee, and Butler and Boyers, Pennsylvania, with the intent to promote, manage, carry on and facilitate the promotion, management and carrying on or an unlawful activity, to wit: the commission of arson in violation of Section 53(a)--113, Connecticut General Statutes (Rev. 1958, as Amended), and did perform acts to promote, manage, carry on and facilitate the promotion management and carrying on of such unlawful activity,

In violation of Title 18, United States Code, Section 1952 and 2.

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COUNT THREE

On or about the 28th day of February, 1975, in the District of Connecticut and elsewhere, DAVID N. BUBAR, PETER BETRES, DENNIS C. TICHE, MICHAEL J. TICHE, JOHN W. SHAW, RONALD BETRES, ALBERT R. COFFEY, ANTHONY A. JUST, DONALD L. CONNORS and CHARLES D. MOELLER did transport in interstate commerce, from Boyers in the Commonwealth of Pennsylvania to Shelton in the State of Connecticut, explosives, that is, dynamite, detonating or primer cord and blasting caps, knowing and intending that the said explosives would be used unlawfully to damage and destroy a building on Canal Street, in Shelton, Connecticut, known as Plant No. 4, Sponge Rubber Products Company,

In violation of Title 18, United States Code, Section 844(d) and 2.

COUNT FOUR

On or about March 1, 1975, in the District of Connecticut, DAVID N. BUBAR, PETER BETRES, DENNIS C. TICHE, MICHAEL J. TICHE, JOHN W. SHAW, RONALD BETRES, ALBERT R. COFFEY, ANTHONY A. JUST, DONALD L. CONNORS and CHARLES D. MOELLER did use an explosive, that is, dynamite, detonating or primer cord and blasting caps, to commit the offense of interstate travel in aid of racketeering enterprises in violation of Title 18, United States Code, Section 1952, a felony prosecutable in a court of the United States,

In violation of Title 18, United States Code, Section 844(h) and 2.

On or about March 1, 1975, in the District of Cornecticut, DAVID N.

BUBAR, PETER BETRES, DENNIS C. TICHE, MICHAEL J. TICHE, JOHN W. SHAW, RONALD

BETRES, ALBERT R. COFFEY, ANTHONY A. JUST, DONALD L. CONNORS and CHARLES D.

MOELLER did maliciously damage and destroy by means and use of explosives,
that is, dynamite, detonating or primer cord and blasting caps, the building
located at Canal Street, in Shelton, Connecticut, known as Plant No. 4 of the
Sponge Rubber Products Company, said building then being used by Sponge Rubber

Products Company, a division of Grand Sheet Metal Company of Spencerville,
Ohio, for the manufacture and sale of foam rubber products in interstate

commerce, an activity affecting interstate commerce,

In violation of Title 18, United States Code, Section 844(i) and 2.

COUNT SIX

On or about February 28, 1975, in the District of Connecticut and elsewhere, PETER BETRES, ANTHONY A. JUST, MICHAEL J. TICHE, JOHN W. SHAW and DONALD L. CONNORS, being other than licensees or permittees as defined in Title 18, United States Code, Section 841(j) and (m), did knowingly transport, ship and cause to be transported in interstate commerce explosives, to wit: dynamite, detonating or primer cord and blasting caps.

In violation of Title 18, United States Code, Section 842(a)(3) and 2.

COUNT SEVEN

On or about March 1, 1975, in the District of Connecticut, DAVID N. BUBAR, PETER BETRES, RONALD D. BETRES, ALBERT R. COFFEY, ANTHONY A. JUST, LENNIS C. TICHE, MICHAEL J. TICHE, and JOHN W. SHAW did carry a firearm as defined in Title 18, United States Code, Section 921(a)(3), to wit: a handgun, unlawfully during the commission of a felony for which they and each of them may be prosecuted in a court of the United States, to wit: interstate travel in aid of a racketeering enterprise, Title 18, United States Code, Section 1952, and destruction by explosives of a building used in interstate commerce, Title 18, United States Code, Section 844(i),

In violation of Title 18, United States Code, Section 924(c) and 2. COUNT EIGHT

From December, 1974, the precise date to the Grand Jury being unknown, and continuously thereafter up to and including the date of the filing of this indictment, in the District of Connecticut and elsewhere, CHARLES D. MOELLER, DAVID N. BUBAR, PETER BETRES, RONALD D. BETRES, ALBERT R. COFFEY, ANTHONY A. JUST, DENNIS C. TICHE, MICHAEL J. TICHE, JOHN W. SHAW, and DONALD L. CONHORS, constituting and being associated with an enterprise engaged in, and the activities of which affected interstate commerce as defined by Title 18, United States Code, Section 1961(4), to wit: a group of individuals associated in fact for the purpose of burning and destroying buildings, did unlawfully, wilfully and knowingly conduct and participate in the affairs of such enterprise through a pattern of racketeering activity as defined by Title 18, United States Code, Section 1961, to wit: arson, in violation of Connecticut General Statutes (Rev. 1958 as Amended), Section 53a-113, and kidnapping in violation of Connecticut General Statutes (Rev. 1958 as Amended) Section 53a--92,

In violation of Title 18, United States Code, Section 1962(c) and 2.

COUNT NINE

On or about February 27, 1975, in the District of Connecticut and elsewhere, DENNIS C. TICHE, MICHAEL J. TICHE, JOHN W. SHAW, PETER BETRES, DAVID N. BUBAR and CHARLES D. MOELLER wilfully and knowingly did make a firearm, as defined in Title 26, United States Code, Section 5845(a)(8) and Title 26, United States Code, Section 5845(f)(1)(A), to wit: a destructive device consisting of dynamite, detonating or primer load, blasting caps and gasoline, without having paid the making tax as required by Title 26, United States Code, Section 5821,

In violation of Title 26, United States Code, Section 5861(F), 5871, and Title 18, United States Code, Section 2.

COUNT TEN

On or about February 28, 1975 in the District of Connecticut and elsewhere, DENNIS C. TICHE, MICHAEL J. TICHE, JOHN W. SHAW, PETER BETRES, DAVID N. BUBAR, CHARLES D. MOELLER, and DONALD L. CONNORS wilfully and knowingly did transport, deliver and receive in interstate commerce a firearm as defined in Title 26, United States Code, Section 5845(a)(8) and Title 26, United States Code, Section 5845(f)(1)(A), to wit: a destructive device consisting of dynamite, detonating or primer load, blasting caps and gasoline and which firearm had not been registered as required by Chapter 53, Title 26, United States Code;

In violation of Title 26, United States Code, Section 5861(i), 5871, and Title 18, United States Code, Section 2.

COUNT ELEVEN

On or about March 1, 1975, in the District of Connecticut and elsewhere, DENNIS C. TICHE, MICHAEL J. TICHE, JOHN W. SHAW, PETER BETRES, DONALD L. CONNORS, RONALD D. BETRES, ALBERT R. COFFEY, ANTHONY A. JUST, DAVID N. BUBAR and CHARLES D. MOELLER, wilfully and knowingly did receive and possess a firearm as defined in Title 26, United States Code, Section 5845(a)(8) and Title 26, United States Code, Section 5845(f)(1)(A), to wit; a destructive device consisting of dynamite, detonating or primer load, blasting caps and gasoline made without the payment of a making tax as required by Title 26, United States Code, Section 5821,

In violation of Title 26 United States Code, Section 5861(c), 5871... and Title 18, United States Code, Section 2.

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On or about March 1, 1975, in the District of Connecticut and elsewhere, CHARLES D. MOELLER, DAVID N. BUBAR, PETER BETRES, RONALD D. BETRES, ALBERT R. COFFEY, ANTHONY A JUST, DENNIS C. TICHE, MICHAEL J. TICHE, JOHN W. SHAW and DONALD L. CONNORS, did wilfully and knowingly receive and possess a firearm, as defined in Title 26, United States Code, Section 5845(a)(8), and Title 26, United States Code, Section 5845(f)(1)(A), to wit: a destructive device consisting of dynamite, detonating or primer load, blasting caps and gasoline, which firearm was not registered to any of them in the National Firearms Registration and Transfer Record, as required by Chapter 53. Title 26, United States Code;

In violation of Title 26, United States Code, Section 5861(d) and 5871, and Title 18, United States Code, Section 2.

PETER C. DORSEY

UNITED STATES ATTORNEY

FOREMAN /

Guy P NOCERIO

PETER A. CLARK
ASSISTANT UNITED STATES ATTORNEY

WILLIAM F. DOW, III
ASSISTANT UNITED STATES ATTORNEY

I hereby certify that the foregoing is a true copy of the original document on file. Pate:

SYLVESTER A. MARKOWSKI

Clerk

(Monos

Deputy In Charge

FOR THE DISTRICT OF CONNECTICUT

UNITED STATES OF AMERICA

٧.

CRIMINAL NO. N-75-59

CHARLES D. MOELLER,
DAVID N. BUBAR, aka Noble David Bubar,
PETER BETRES,
RONALD D. BETRES,
ALBERT R. COFFEY,
ANTHONY A. JUST,
DENNIS C. TICHE,
MICHAEL J. TICHE,
JOHN W. SHAW and
DONALD L. CONNORS

The Grand Jury Charges:

COUNT ONE

That commencing on or about the month of December, 1974, the precise date being to the Grand Jury unknown, and continuously thereafter up to and including the date of the filing of this indictment, in the District of Connecticut and elsewhere, CHARLES D. MOELLER, DAVID N. BUBAR, PETER BETRES, RONALD D. BETRES, ALBERT R. COFFEY, ANTHONY A. JUST, DENNIS C. TICHE, MICHAEL J. TICHE, JOHN W. SHAW, and DONALD L. CONNORS, defendants herein, wilfully and knowingly did combine, conspire, confederate, and agree together and with each other and with diverse other persons to the Grand Jury unknown, to commit the following offenses against the United States of America:

1. To travel in interstate commerce between Butler, Pittsburgh,
Boyers and New Kensington, all in the Commonwealth of Pennsylvania; and New
York in the State of New York; and Shelton, Derby, Danbury and New Haven
in the State of Connecticut, with the intent to promote, manage, carry on
and facilitate the promotion, management and carrying on of an unlawful activity,
to wit: the commission of arson in violation of Section 53(a)--113, Connecticut
General Statutes (Rev. 1958 as Amended), and did perform acts to promote,

manage, carry on and facilitate the promotion, management and carrying on of such unlawful activity in violation of Title 18, United States Code, Section 1952 and 2.

OVERT ACTS

In furtherance of the conspiracy, and to effect the objects thereof, the defendants did commit, among others, the following overt acts:

- a. In late December, 1974, or early January, 1975, DAVID N. BUBAR and PETER BETRES traveled from New York, New York, to Shelton, Connecticut.
- b. On or about February 17, 1975, DENNIS C. TICHE traveled from Boyers, pennsylvania, to Shelton, Connecticut, and ANTHONY A. JUST traveled from New Kensington, Pennsylvania, to Shelton, Connecticut.
- c. On or about February 20, 1975, DENNIS C. TICHE and JOHN W. SHAW arranged to purchase and did purchase and acquire drums for the purpose of transporting explosives and an accelerant from Boyers, Pennsylvania to Shelton, Connecticut.
- d. On or about February 20 and February 27, 1975, DENNIS C. TICHE and JOHN W. SHAW purchased or obtained gasoline to be used as an accelerant.
- e. On or before February 27, 1975, DENNIS C. TICHE purchased and obtained dynamite, detonating or primer cord and blasting caps for use in igniting the accelerant.
- f. On or about February 27, 1975, DENNIS C. TICHE and others arranged to rent and obtained the use of an Avis Rental truck.
- g. On or about February 27, 1975, DENNIS C. TICHE, MICHAEL J. TICHE, and JOHN W. SHAW prepared and loaded the explosives and accelerant aboard the Avis truck for transportation from Boyers, Pennsylvania, to Shelton, Connecticut.

- h. On or about February 27, 1975, PETER BETRES arranged to have DONALD L. CONNORS drive the Avis truck loaded with the explosives and accelerant from Boyers, Pennsylvania, to Shelton, Connecticut.
- i. On or about February 28, 1975, DONALD L. CONNORS drove the Avis truck from Boyers, Pennsylvania, to Shelton, Connecticut.
- j. On or about February 28, 1975, DONALD L. CONNORS made a telephone call from the State of New York to the State of Connecticut, in the course of which he received instructions as to the precise destination and the route he was to follow thereto.
- k. On or about February 28, 1975, PETER BETRES traveled from Butler, Pennsylvania, to Shelton, Connecticut, and from Shelton, Connecticut, to New York, New York.
- 1. On or about February 28, 1975, DENNIS C. TICHE, MICHAEL J. TICHE, and JOHN W. SHAW traveled from Pittsburgh, Pennsylvania, to New York, New York and then to New Haven, Connecticut, and thence to Shelton, Connecticut.
- m. On or about February 28, 1975, ANTHONY A. JUST, ALBERT R. COFFEY and RONALD D. BETRES traveled from Pen. ylvania to Danbury, Connecticut, and thence to Shelton, Connecticut.
- n. On or about March 1, 1975, DONALD L. CONNORS delivered approximately twenty-four (24) drums of gasoline and two (2) drums of explosives to Plant 4 of Sponge Rubber Products Company, Shelton, Connecticut.
- o. On or about March 1, 1975, DAVID N. BUBAR arranged and facilitated the delivery of gasoline and explosives into Plant 4, Sponge Rubber Products Company, Shelton, Connecticut, and the entry thereinto of DENNIS C. TICHE, MICHAEL J. TICHE and JOHN W. SHAW.
- p. On or about March 1, 1975, DAVID N. BUBAR, DENNIS C. TICHE,
 MICHAEL J. TICHE, JOHN W. SHAW, ANTHONY A. JUST, RONALD D. BETRES and ALBERT R.
 COFFEY were in Plant 4, Sponge Rubber Products Company, Shelton, Connecticut.

q. On or about March 1, 1975, RONALD D. BETRES, ALBERT R. COFFEY and ANTHONY A. JUST abducted and removed from Plant 4, Sponge Rubber Products Company, Shelton, Connecticut, three persons employed thereat, to wit: ROY RANNO, ALFRED C. HANLEY and ROBERT V. DE JOY.

r. On or about February 10, 1975, February 28, 1975 and March 19, 1975, CHARLES D. MOELLER directed and authorized the payment of the sums of Twenty Thousand (\$20,000) Dellars and Fifteen Thousand (\$15,000) Dollars, and Fifteen Thousand (\$15,000) Dollars, moneys of Ohio Decorative Products, Inc., Grand Sheet Metal Company and/or Sponge Rubber Products Company, to Southern Supply Company, delivery of which was made to DAVID N. BUBAR.

s. On or about February 11, 19.75, DAVID N. BUBAR paid and delivered to PETER BETRES a sum of money.

t. On or about February 28, 1975, PETER BETRES delivered a sum of money to DENNIS C. TICHE.

u. On or about March 1, 1975, DENNIS C. TICHE delivered a sum of money to MICHAEL J. TICHE and JOHN W. SHAW.

All in violation of Title 18, United States Code, Section 371.

COUNT TWO

On or about February 28, 1975, in the District of Connecticut and elsewhere, DAVID N. BUBAR, PETER BETRES, DENNIS C. TICHE, MICHAEL J. TICHE, JOHN W. SHAW, RONALD D. JETRES, ALBERT R. COFFEY, ANTHONY A. JUST, DONALD L. CONNORS and CHARLES D. MOELLER did travel and cause travel in interstate commerce between Butler, Boyers, Pittsburgh and Jew Kensington, all in the Commonwealth of Pennsylvania, and New York in the State of New York, and Shelton, Derby, Danbury and New Haven, in the State of Connecticut, with the

intent to promote, manage, carry on and facilitate the promotion, management and carrying on of an unlawful activity, to wit: the commission of arson in violation of Section 53-(a)-113, Connecticut General Statutes (Rev. 1958, as Amended), and did perform acts to promote, manage, carry on and facilitate the promotion, management and carrying on of such unlawful activity,

In violation of Title 18, United States Code, Section 1952 and 2.

COUNT THREE

On or about the 28th day of February, 1975, in the District of Connecticut and elsewhere, DAVID N. BUBAR, PETER BETRES, DENNIS C. TICHE, MICHAEL J. TICHE, JOHN W. SHAW, ALBERT R. COFFEY, ANTHONY A. JUST, DONALD L. CONNORS and CHARLES D. MOELLER did transport in interstate commerce, from Boyers in the Commonwealth of Pennsylvania to Shelton in the State of Connecticut, explosives, that is, dynamite, detonating or primer cord and blasting caps, knowing and intending that the said explosives would be used unlawfully to damage and destroy a building on Canal Street, in Shelton, Connecticut. known as Plant No. 4, Sponge Rubber Products Company,

In violation of Title 18, United States Code, Section 844(d) and 2.

COUNT FOUR

On or about March 1, 1975, in the District of Connecticut and elsewhere, CHARLES D. MOELLER, DAVID N. BUBAR, PETER BETRES, RONALD D. BETRES, ALBERT R. COFFEY, ANTHONY A. JUST, DENNIS C. TICHE, MICHAEL J. TICHE, JOHN W. SHAW and DONALD L. CONNORS, did wilfully and knowingly receive and possess a firearm, as defined in Title 26, United States Code, Section 5845(a)(8), and Title 26, United States Code, Section 5845(f)(1)(A), to wit: a destructive device consisting of dynamite, detonating or primer load, blasting caps and gasoline, which firearm was not registered to any of them in the National Firearms Registration and Transfer Record, as required by Chapter 53, Title 26, United States Code,

In violation of Title 26, United States Code, Section 5861(d) and 5871, and Title 18, United States Code, Section 2.

FOREMAN

PETER C. DORSEY UNITED STATES ATTORNEY

PETER A. CLARK
ASSISTANT UNITED STATES ATTORNEY

WILLIAM F.DOW, III
ASSISTANT UNITED STATES ATTORNEY

CRIMINAL DOCKET UNITED STATES DISTRICT COURT

MARCH 3, 1976 assigned to Judge Zampano for retrial of M. TICHE, A. COFFEY & A. JUST JUDGE NEWMAN N-75-59

UMITED	STATES DISTRICT	COURT JUDG	E NEWMAN	N-75-5	99			
D. C. Form No.		Court of App	eels nir /	6-1160				
•	. TIT	LE OF CASE			ATTOR	NEYS		
•	THE UN	ITED STATES		For U.S.:				
		vs.		Peter C.	Dorse	y, U	.s. /	Atty.
	D. MOELLER Cts							
DAVID N. PETER BET	BUBAR Cts. 1.2	2,3,4,5,7,8,9,1 3,4,5,6,7,8,9,	0,11,12	Wm. F. I	low, II	I, A	.U.S	Att
	BETRES Cts. 1,	2.3.4.5.7.8.11	. & 12	Federal	Bullar	ng N	ew_H	aven
ALBERT R	COFFEY Cts. 1,	2,3,4,5,7,8,11	, & 12					
	A. JUST Cts. 1,			12				
MICHAEL.	TICHE CTS. 1,	2,3,4,5,7,0,9,	9 10 11 &	12 For Defend	ant:			
JOHN W. S	HAW Cts. 1,2,3	3,4,5,6,7,8,9,1	0,11, & 12	MOELLER: T	heodore		skoff	
DONALD L.	. CONNORS. Cts.	1,2,3,4,5,6,8,	10 11 & 1	2 1	241 Mair			
					ridgepor illiam (appt)
					52 Templ			pper
				.1	ew Hayer			
		ı — — — — — — — — — — — — — — — — — — —	(SEE PAGE	1A fdr counsel)	П			
STAT	ISTICAL RECORD	COSTS	1976			EC.		SB.
		On the	1/3	28 R. Zalowi	tz	-	for	apaca
J.S. 2 maile	d	Clerk	1/3	47558		00		
J.S. 3 maile	ed ////////	Marshal		30 Deposit: G.F.10086	9	+	5	00
		Y	2/5	Schless &		.00		
Violation U	J.S.C.	Docket fee		Sagarin			5	00
Title 18	£ 26			(Appeal)	-	-	-3	00
TIME TO	α 20							
	1952&2, 844(d)							
2, 844 (h)),2,844(i),2,),2,924(c),2,						-	
	2, 5861(F) 5871				-	-	-	
	5871,5861(c)							
	d 5861(d) 5871				*			
1975			PROCEEDING8					
5/8	The Gra	and Jury at New	Haven ret	urned a True	Bill c	of In	dict	ment
		ation of Title						
	2, 844(i), 2,	844(h),2,842(Sections 5861(f	(a) (3),2 92 5871 2	4(c),2, 19621	c),2,	and	ciol	5871
	2, 5861(d) and	5871(2). 12 c	tsCt. 1)	Conspiracy.	Ct. 2)	use	d te	le-
	phone to promo	ote unlawful ac	tivities,	Ct. 3) inter	cstate	tran	spor	t
		Ct. 4) intersta						
		did damage and other than lice						
		Ct. 7) did carr						
	felony, Ct. 8	being association being association	ted with a	n enterprise	engage	d in		
	without having	paid the maki rearm, which h	ng tax, Ct	. 10) did tra	nsport	in	inte	
		ossess firearm, and possess fire						12)
	ahem in the Na	ational Firearm 975 at 10:00 A.	ns and Tran	sfer Recrod.	Summo	ons n	nay 1	SSIE
Karal Maria		la plead not a						-

have previously plead not guilty and will be called in on another

DATE	PROCLEDINGS
5/8	date for pleading in the Indiators W
5/12	date for pleading in the Indictment. Newman, J. m-5/9/75.
	MOELLER, BUBAR, BETRES, P., BETRES, R., TICHE, M., JUST, CONNORS: Summons issued in duplicate together with certified copy of Indictment
	handed to U.S. Marshal for service.
_5/14	MOELLER: PLEA: Plea of not quilty entered to County 1 2 2 / 5
	8, 9,10,11 & 12. All pre-trial otions to be filed by June 2, 1975.
	Newman, J. m-5/14/75.
5/14	M. TICHE: CIA Form 20 appointing There P. Click
	represent defendant, filed Newman, J. Copiesdistributed
5/16	represent defendant, filed Newman, J. Conjesdistributed M. TICHE: CJA Form 23, Financial Affidavit, filed by defendant.
_5/19 _5/19	Notice of Rediness as to all defendants, filed by the Govt. ANTHONY A. JUST: PLEA: Plea of not guilty entered to Counts 1,2,3,4,5,7,8,
_5/19	ANTHONY A. JUST: PLEA: Plea of not guilty entered to Counts 1,2,3,4,5,7,8,
	121 and 12. Otal motion forder to reduct bond to \$20,000 or \$10,000 non-curety dent
	at this time. Public Defender appointed. Court asks Atty Craig to act as laisteen
	office for all requests by counsel in this case. Case continued on same bond for tri
5/19	MICHAEL J. TICHE: PLEA: Plea of not guilty entered to Counts 1,2,3,4,5,6,7,
	10, 10, 11 and 12. leffitorial limits of bond extended to West Winstell out
	The state of the s
	of the by Jule 2, 1973. Utal motion of deft, to restrain it c Manalai F
5/19	fingerprints, denied. Case continued on same bond for trial. Newman, J. m-5/19/75.
	PETER BETRES: PLEA: Plea of not guilty entered to Counts 1,2,3,4,5,6,7,8,9, 10,11 and 12. Upon motion of U. S. Attorney, Atty. Martino is permitted to appear
	in this case. Court informs him to submit proper papers and to also obtain local
	codiner. Hottons to be filed by lime / 1975 heat morton of the
	U. S. Marshal from taking fingerprints, denied. Case continued on same bond for
	trial. Newman, J. m-5/19/75.
5/19	DAVID N. BUBAR: PLEA: Defendant nor counsel did not appear. Bench Warrant
e tage o	I may roote, newhall, J. m-3/19//). Rench Warrant iccurd in duntionts
	The certified copy of indictment, handed to U. S. Marchal
5/19	DONALD L. COMNORS: PLEA: Defendant por guage 1 444
	find duties bond to neteny revoked and horn harrant man form
	bench hallant issued and forether with corrected some of T it
5/20	Marshal. 5/21 - Defendant again did not appears 9 marked over. Newman, J.m-5/22/75. COFFEY: Bench Warrant issued in duplicate and together with certified copy of Indictment, handed to U. S. Marshal for service
3/20	COFFEY: Bench Warrant issued in duplicate and together with certified copy
- /	Tot service.
5/19	RONALD BETRES: PLEA: Over to May 28, 1975 at 10:00 A.M. Newman, J. m-5/20/7
_5/21	Court Reporter's notes of proceedings (peas) held on May 16 1075 641-4
E / 01	(vale, K.)
5/21	Marshal's Return Mowing Servicec, filed: Certified mail re MOELLER, JUST
5/21	DODAL R. BETRES, P. BETRES, N. TICHE and CONNORS.
3121	Envelope containing summons to ANTHONY A. JUST returned marked "address
5/22	
	CONNORS: U. S. Magistrate's Papers, filed: Bail Reform Act Form No. 2. Personal Appearance Eond in the amount of \$10,000.00, CJA Form 20 appointing
0.	M. Lawrence Shields, III, Esq. in Pittsburg, Pa. on bail hearing.
5/22	CONNORS: Motion for Issuance of Bench Warrant, filed by Govt. and So
	Ordered. Newman, J. m-5/22/75. Copies handed U. S. Atty. Bench Warrant issued in
·	The state of the control of the cont
£100	- CORTACO)
5/22	PETER BETRES: Applidation for Order for Prodesion of Handwriting Exemplars,
	filed by Govt.
	(continued)
in.	,

DATE	PROCLEDING8
5/8	date for pleading in the Indictment. Newman, J. m-5/9/75.
5/12	
	Summons issued in duplicate together with certified copy of Indictment
	handed to U.S. Marshal for service.
_5/14	MOELLER: PLFA: Plea of not quilt
5/14	
	M. TICHE: CJA Form 20 appointing Thomas D. Clifford, Esq. to
5/16	represent defendant, filed Newman, J. Copiesdistributed M. TICHE: CJA Form 23, Financial Affidavit, filed by defendant.
_5/19	Notice of Rediness as to all defendants filed by the control of the state of the st
5/19	Notice of Realiness as to all defendants, filed by the Govt. ANTHONY A. JUST: PLEA: Plea of not guilty entered to Counts 1,2,3,4,5,7,8, 11 and 12. Oral motion fordeft to reduct book to 2000 and 1000 counts 1,2,3,4,5,7,8,
	The state of the s
	office for all requests by counsel in this case. Case continued on same bond for tri
5/19	· · · · · · · · · · · · · · · · · · ·
	MICHAEL J. TICHE: PLEA: Plea of not guilty entered to Counts 1,2,3,4,5,6,7,
	Jersey, New York and Connecticut for purpose of ment virginia, Ohio, New
5/19	
	Counsel. Motions to be filed by June 2, 1975. Oral motion of defendant to restrain U. S. Marshal from taking fingerprints, denied. Case continued on same bond for
	trial. Newman, J. m-5/19/75.
-5/19	DAVID N. BURAP. DIFA. Defend
	DAVID N. BUBAR: PLEA: Defendant nor counsel did not appear. Bench Warrant may issue. Newman, J. m-5/19/75. Bench Warrant issued in duplicate, and together with certified copy of Indictment, bonded to W. G. W.
-5/19	DOMALD L. COMMORS. PLEA. Doferlant
5/20	1// = Notondant and 1/1
	of Indictment, handed to U. S. Marshal for service.
5/19	RONALD BUTTES: PLEA: Over to New 28, 1975
5/21	RONALD BETRES: PLEA: Over to May 28, 1975 at 10:00 A.M. Newman, J. m-5/20/7
	(Gale, R.) Court Reporter's notes of proceedings (peas) held on May 14, 1975, filed.
5/21	Marshal's Return Showing Services, filed: Certified mail re MOELLER, JUST,
F	The state of the s
5/21	Envelope containing summons to ANTHONY A THET POLICE IN THE
5/22	and the same of th
	CONNORS: U. S. Magistrate's Papers, filed: Bail Reform Act Form No. 2,
P	Personal Appearance Bond in the amount of \$10,000.00, CJA Form 20 appointing Lawrence Shields, III, Esq. in Pittsburg, Pa. on bail hearing.
5/22	CONNORS: Motion for Issuence of Board H.
(CONNORS: Motion for Issuance of Bench Warrant, filed by Govt. and So Drdered. Newman, J. m-5/22/75. Copies handed U. S. Atty. Bench Warrant issued in
5/22	
_	PETER BETRES: Applidation for Order for Provision of Handwriting Exemplars,
	(continued)

DATE	PROCEEDINGS COUNSEL CONTINUEDE
1975	
•	D. TICHE: Dennis Curtis (appt) on appeal Igor Sikorsky, Jr. 127 Wall St. 111 Pearl Street
	Hew Haven, Conn. Hartford, Conn.
<u>•</u>	
	M. TICHE: Thomas D. Clifford (appt) R-20 to Albany, N.Y. 799 Main St. William Quinlan, 133 Wall Street
	. Hartford, Conn Schenectady, N.Y.
-	ANTHONY A. JUST: Gregory B. Craig (appt)
	Federal Public Defender
	770 Chapel St.
	New Haven, Conn.
*	R. BETRES: James E. McLaughlin Whiteful 6/27/18
	618 Frick Building
	Pittsburgh, Pennsylvania 15219
	D. CONNORS: David S. Golub (appt)
	733 Summer Avenue, P. O. Box 3247
	Stamford, Connecticut.
	P. BETRES: Leonard Tr. Martino & Aaron B. Schless pre tri
	Harting - Ferris & - Zoffer J. Daniel Sagarin motions
	withdrawn Suite McCarlton House 855 Main Street only
-	Pittsburgh, =Pa15219 Bridgeport, Conn.
*	R. BETRES: James E. McLaughlin-
	-618 Frick Building
	Pittsburgh, Pennsylvania 15219
	BUBAR: Rudolph Lion Zalowitz BUBAR: Richard T. Meehan
	213 Ross Avenue 144 Golden Hill Street
	Hackensack, New Jersey. Bridgeport, Conn.
	BETRES, R: Alan Neigher (Retained for part of withdrawn conditionally
	855 Main Street case & then 11/11/75
	Suite 825 Court appointed for part)
	Bridgeport, Conn.
	COFFEY: Andrew B. Bowman (appt)
	955 Main St.
	Bridgeport, Conn.
	/

D.

	T T T T T T T T T T T T T T T T T T T
1975	PROCEEDINGS
	Andication for Writ of Habasa Corner Ad Brassaura I. 543-4 Water 13-14
- 5/22	Application for Writ of Habeas Corpus Ad Prosequendum, filed. Writ allowed.
	Newman, J. m-5/22/75. Writ issued in duplicate and together with copies of
	Application handed to Marshal for service. Markowski, C.
5/21	JUST: CJA Form D appointing Federal Jublic Defender to represent defendant, filed
5/28	and So Ordered. Newman, J. m-5/22/75. Copies mailed to counsel. BETRES, R.: Motion for Transfer, filed by defendant.
5/28	BETRES, R.: Motion for Discovery and Inspection, filed by deft.
5/28	BETRES, R. : Motion for a Bill of Partiuclars, filed by deft.
5/28	BETRES, R.: Motion to Dismiss, filed by defendant.
5/28	BETRES; R.: Motion for Transfer from District for the Purpose of Arraignment
	Or, in the Alternative, for a Protective Order, filed by deft.
5/29	CONNORS: Warrant of Arrest returned by U.S. Marshal marked
21-7	"Withdrawn."
5/28	CONNORS: PLEA: Plea of not guilty entered to Counts 1,2,3,4,5,
3120	6,8,10,11, & 12. Attorney David S. Golub appointed for plea purposes
	until financial affidavit is filed with Clerk's office. Case continued
	on same bond of \$10,000,00 without surety. Travel limited to Connecticut
	and all of Pennsylvania and necessary travel between those points.
	Newman, J. m-5/28/75.
5/28	BETRES, R. Motion for Transfer from District for the Purpose
	of arraignment or, In the Alternative, for a Protective Order, filed
	by defendant. Hearing held on motion. U.S. Atty. Peter Dorsey moves for the admission of James E. McLaughlin, Esq. for the purpose of this
	case. Motion granted. Motion for Transfer-denied. Alternative motion
	denied. Newman, J. m-5/28/75.
5/28	BETRES! R. Plea: Flea of not guilty entered to Counts 1,2,3,4,5,
- /00	7,8,11 & 12. Case continued on same bond. Newman, J. m-5/28/75.
5/28	CONNORS: CJA Form 23, Financial Affidavit, filed by defendant.
5/28	defendant, filed. Newman, J. copies distributed.
5/28	CONNORS: Appearance bond in the amount of \$10,000.00 nonsurety
3120	filed by defendant. Bond limitations extended to the whole District of
	Pennsylvania. Approved, Newman, J. m-5/29/75.
5/30	MOELLER: Court Reporter's Sound Recording of Proceedings (Plea)
	held on May '14, 1975, filed, Gale, R.
5/30	The following motions were filed by the defendant Anthony Just:
3/30	The following motions were filed by the defendant Anthony Just: 1) Defendant Just's Motion for Leave to Join, Adopt, or Consolidate
	Motions of Co-Defendants.
	?) Defendant Just's Motion to Extend the Deadline for filing Motions,
	or in the Alternatvie, to Grant Leave to file Supplementary Motions.
	3) Mtion to Suppress Evidence Derived from unlawful Electronic
	Surveillance.
	4) Defendant Justs Motion for Individual Voir Dire of Jury Venire.
7	5) Defendant Just's Motion for Disclosure regarding opening of First
	Class Mail.
	6) Defendant Just's Motion for Change of Venue.
	7) Defendant Just's Motion for Discovery and Inspection.
	8) Defendant Just's Motion for Production at Trial
	9) Defendant Just's Motion for Relief from Prejudicial Joinder of
	defendants.
	10) Defendant Just's Motion for Disclosure of Electronic Surveillance.
•	11) Defendant Just's Motion for Production of Evidence Favorable to
	the accused.
2	12) Defendant Just's Motion for Severance of Counts.
	13) Defendant Just's Motion to Dismiss Counts Six, Eight and Twelve.
	1

1975	PROCEEDINGS
5/30	14) Defendant Just's Motion to Impound and Preserve any and all
	Notes, Reports and Memoranda of Federal Bureau of Investigation Agents,
	State Police Officers, and Shelton Police Officer relevant to the
	Instant Indictment.
	15) Defendant Just's Motion to Suppress Photographic and Exewitness
	Identification.
	16) Defendant Just's Motion for an Order Increasing the number of
	peremptory challenges available to Defense Counsel.
	The second contract of
6/2	P RETRES: Motion for Discovery and Inspection, filed by dett.
	P. BETRES: Motion for Transfer, filed by dett.
	P RETRES. Motion of Rill of Particulars, filed by dett.
	P. BETEES: Motion To. Dismiss, filed by deft.
	P. BETRES: Motion in Opposition for Application for Provision of
	Handwriting exemplars, filed by deft,
	P. BETRES: Motion for Leave to Join. Adopt and Consolidate Pre-Tr
	Motions filed on Behalf of Co-Defendants, filed by deft.
6/2	CONNORS: M otion for Extension of Time to File Pretrial Motions,
	filed by defendant.
6/2	JUST: Motion for a Bill of Particulars, filed by deft.
	JUST: Motion to Dismiss, filed by deft.
	JUST. Motion to Strike, filed by deft, MOELLER: 1. Motion for a Bill of Particulars, 2. Motion for
	Disclosure Regarding Mail Cover and/or Opening of First Class Mail, 3.
	Motion to Dismiss Indictment Due to Abuses of the Grand Jury Process,
	4. Motion to Inwound and Preserve any and all Notes, Reports and
	Memoranda of Federal Bureau of Investigation Agents. State Police
	Officers, and Shelton Police Officers Relevant to the Instant Indictment
	5. Motion to Dismiss Counts One. Two and Four of the Indictment.
	6. Motion for Production at Trial. 7. Motion for Disclosure of
	Electronic Surveillance and Eavesdropping and Suppression of its Fruit
	8. Motion for Production of Grand Jury Testimony. 9. Motion in Limin
	10. Motion For Permission For Defense Counsel to Conduct Voir Dire.
	11. Motion to Dismiss Indictment. 12. Motion for Production of
	Evidence Favorable to the Accused. 13. Motion to Enlarge Number of
	Peremptory Challenges. 14. Motion to Extend the Deadline for Filing Motions, or in the Alternative, To Grant Leave to File Supplementary
	Motions, or in the Alternative, To Grant Leave to File Supplementary Motions. 15. Motion for Leave to Join, Adopt, or Consolidate Motions
	of Co-Defendants. 16. Motion for Discovery and Inspection. 17.
	Motion for Disclosure of Government Promises Made or Consideration
	Offered to Government Witnesses. 18. Motion to Dismiss the Indictmen
	Due to Government Destruction of Evidence Necessary to His Defense.
	19. Motion to Dismiss Counts One. Two. Eight. Ten and Eleven or for
	an Order Requiring the Government to Elect. 20. Motion for a Change
	of Venue, filed by Defendant.
	M. J. TICHE: 1. Motion to Suppress Identification Testimony.
	2 Motion to Suppress Evidence Derived from Unlawful Electronic
	Surveillance. 3. Motion for Disclosure of Electronic Surveillance.
	4. Motion for Disclosure Regardings and/or Opening of First Class
	Mail. 5. Motion for Individual Voir Dire of Jury Venier. 6. Motion
	to Impound and Preserve any and all Notes, Reports and Memoranda of
	Federal Bureau of Investigation Agents, State Police Officers, and
	Shelton Police Officers Relevant to the Instant Indictment. 7. Motio
	for Production at Trial. 8. Motion for Bill of Particulars. 9.
	Mahdam Fam Durahian of Pullance Burney
	Motion for Production of Evidence Favorable to the Accused. (Continued)

DATE 1975	PROCEEDINGS .
6/2	10. Motion for Production of Grand Jury Testimony. 11. Motion for
	Discovery and Inspection. 12. Motion for a Change of Venue. 13.
	Water for an Order Transported the Number of Peremptory Challenges
	Available to Defense Counsel. 14. Motion for Severance of Counts.
	15. Motion for Leave to Join, Adopt, or Consolidate Motions of
	Available to Derense Counsel. 14. Motion for Severance of Counts. 15. Motion for Leave to Join, Adopt, or Consolidate Motions of Co-Defendants. 16. Motion to Extend the Deadline for Filing Motions,
	Man de Alexandeiro do Cront Logue to File Supplementary Mollons
	17. Motion to Dismiss. 18. Motion to Dismiss Counts Six, Eight and
	Twelve. 19. Motion to Dismiss Indictment, filed by Defendant. D. C. TICHE: 1. Motion to Suppress Identification Testimony.
	2. Motion for Disclosure Regarding Mail Cover and/or Opening of
	First Class Mail. 3. Motion to Dismiss. 4. Motion to Impound and
	Preserve any and all Notes, Reports and Memoranda of Federal Bureau
	of Investigation Agents, State Police Officers, and Shelton Police
	Officers Relevant to the Instant Indictment. 5. Motion to Extend
	the Deadline for Filing Motions, or in the Alternative, to Grant
	Leave to File Supplementary Motions. 6. Motion for Leave to Join,
	Adopt or Consolidate Motions of Co-Defendants. /. Motion to Dismiss
	Counts Six Fight and Twelve. 8. Motion for Severence. 9. Motion
	for an Order Increasing the Number of Peremptory Challenges Available
	to Defense Counsel. 10. Motion for Individual Voir Dire of Jury
	Venire 1. Motion for a Change of Venue. 12. Motion to Dismiss
	Indictment, 13. Motion to Suppress Evidence Derived from Unlawful
	Electronic Surveillance. 14. Motion for Disclosure of Electronic
	Surveillance. 15. Motion for Production of Grand Jury Testimony.
•	16. Motion for Production of Evidence Favorable to the Accused. 17. Motion for Bill of Particulars. 18. Motion for Production at Trial.
	19. Motion for Discovery and Inspection, filed by Defendant.
6/2	CONNORS: Motion for Extension of Time to File Pre-Trial Motions
• 0/2	endorsed as follows "Motion Granted" Newman, J. m-6/3/75.
6/3	Motion for Admission of James E. McLaughlin to Represent Defendant
	Ronald D. Betres, filed and So Ordered Newman, J. m-6/3/75. Copies
	mailed to Counsel of Record.
6/3	Order to Show Cause, filed. It is Ordered that the Protection
	Mutual Insurance Co, and it counsel, show cause, why an order should no
	be made herein enjoining and prohibiting the said Protection Mutual
	Insurance Co., its agents or employees, and counsel (a) from requiring deft., Charles D. Moeller, to give sworn statements by deposition
	relating to the cause of the fire which destroyed a building, until
	termination of the above captioned criminal proceeding, (b) from
	rendering a determination or announcing any decision as to its ilability
	for damages resulting from said fire, prior to termination of said
	criminal proceedings. It is further Ordered that service of a copy of
	this order and of the papers upon which it is granted, on the said
	Protection Mutual Insurance Co and Lawrence Zelle, on or before June
. —	6. 1975. shall be sufficient service of this order.* on June 9, 1975.
	Counsel for Defendant Moeller shall give notice of this order to the
	debtor in possession of the named insured Grand Sheet Metal Products
	Co., Newman, J. m-6/4/75. Certified copies of said order handed to
	Marshal for service. Copies mailed to Counsel of record.
*6/2	RUBAR: U.S. Magistrate's Papers from the West. District of
	Tennessee, filed and receipt acknowledged. Record of Proceedings,
	Appearance Bond in the amount of \$20,000.00 with surety of Midland
	Insurance Co. and Edward Morrison, Removal Order, Waiver of Removal
	over

1975	PROCEEDINGS
6/2	BUBAR: Hearing, Order Specifying Methods and Conditions of Release, Certified copy of the Indictment, Warrant of Arrest, with Marshal's
6/5	and copy of Petition for Writ of Habeas Corpus in Graham v. deWinter.
	represent defendant Peter Betres, filed by U.S. Atty and So Ordered
6/6(HE	Newman, J. m-6/5/75. Copies mailed to counsel. ARING) R. BETRES: Motion to Withdraw as Counsel for Deft., filed by Atty.
	McLaughlin, with written consent of deft thereon CIA Form 22 City
-	The state of the time. Until suspect futed counced is annotated
	Court later states he will reserve decision on said Motion until substituted counsel appears. Newman, J. m-6/6/75.
_6/9	
	Discovery and Production, Motion for Change of Veryage and Additional peremptory Challenges, Motion for
	the dovernment. Illed by the detendant
6/5	CONNORS: Warrant of Arrest for Defaulant
	unexecuted per your TWX dated 5/28/75. Deft. reinstated to Federal
6/9	D. TICHE: Hearing held on motion to amend the 1 11 11
to the second se	Mr. Tiche, to include State of New York. Order filed with Court and granted. Newman, J. m-6/10/75.
6/9	D. TICHE, Order filed and entered. It is homely and and and entered.
	Conditions of Defendant Tiche's release on bond be amended
	to U.S. Atty. and Atty. Curtis, Cert. Copy to U.S. Marchal
. 6/6	Louit Reporter 8 Notes of Proceedings held on June 6 1075
.6/11	CONNORS: Motion for Extension of Time and the Connors
	TE County
	disclosures entitle defendent to any further relief, such a claim must be promptly made with 7 days of the disclosure. "Newman, J. m-6/11/75.
	TOPECO CIO. ALLY, GIII ALLY, LOTTIN
6/11	SHAW: PLEA: Plea of not guilty entered to 12 counts of the Indictment. Newman, J. m-6/11/75.
6/12	BUBAR: PLEA: Appearance of Pudolph Lion Zelevite For
	The delt. Flea of not guilty entered to Counts 1 2 3 4 5 7 8 0 10-
	11 & 12. Case continued on same bond of \$20,000.00 with surety. Indictment in N-75053 will be dismissed when all deft. have been put to
	DIEGA DELLA POMPSI IN DAVE TOP MOPLONG COUNT
	Titting of motions to June 20, 19/3. Counsel is advised to make amore
6/13	R. BETRES: Marshal's return showing service filed veloce
6/13	BUBAR: Envelope addressed to defendant, containing summons and
6/16	certified copy of the Indictment, returned marked "Unclaimed." Court Reporter's Notes of Proceedings (Motion) held on June 9, 197
	Lateu, Gate, N.
6/18	Court Reporter's Notes of Proceedings (Plea, Bubar), held on June 12, 1975, filed. Gale, R.
6/18	Court Reporter's Sound Recordings of Proceedings (7)
6/18	The state of the s
	and R. Betres) held on May 28, 1975, filed. Gale, R.
	The state of May 20, 1975, 111ed. Gale, R.

1975	PROCFEDINGS
6,'30	MOELLER: Motion for Inspection and Copying of Material Pertinent
	to Motions Regarding Grand and Petit Jury Selection and Coposition, and
·	Motion to Dismiss the Indictment on the Ground of Improper Grand and Petit Jury Selection and Composition, filed by the defendant.
7/10	BUBAR: Court Reporter's Sound Recording of Proceedings (Plea) hel
7/17	on June 12, 1975, filed. Gale MOELLER: Defendant Moeller's Motion for an Order Suppressing
-0/0	Evidence and Prohibiting the Derivative Use thereof, filed by defendant.
9/2	JUST: Defendant Just's Amended Motion to Sever Counts, filed.
	JUST: Nemorandum in Support of Defendant's Amended Motion to Sever Counts, filed.
9/3	MOELLER, Defendant Moeller's Motion for Relief From Prejudicial
	Joinder or for Severance or for Seperate Trial, Defendant Moeller:s
	Memorandum of Law in Support of His Motion in Limine, Brief in Support
	of Defendant Modler's Motion to Dismiss the Indictment Due to Govern=
	ment destruction of Evidence necessary to his defense, Defendant Moeller's Memorandum of Law Regarding Dismissal or Election as to
-	enumerated Counts of the Indictment which are Multiplicitous, and
	Defendant Moeller's Memorandum of Law in Support of his Motion to Dis-
	miss Indictment due to Abuses of the Grand Jury Process, filed by defendant.
9/4	TICHE, M.: Brief Re Motion for Production of Grand Jury Testimony,
	filed by defendant.
9/5	COFFEY: PLEA: Plea of Not guilty entered to Counts 1 thru 5, 7,
	8, 11 and 12. Case continued on same bond of \$150.000.00 set in Ohio. Counsel for deft, given until 9/12/75 to file motions. Atty. Bowman
	moves to have his client remain during this morning's hearingsgrante
•	Newman . J. m-9/5/75.
9/5	JUST: Memorandum in Support of Defendant Just's Motion to Strike
• 9/5	Surplusage from Count One, filed. JUST: Motion to Dismiss Count eight, filed by defendant.
9/8*	SHAW: Court Reporter's Notes of Proceedings (Plea) held on June
	11, 1975, filed. Gale, R.
9/5*	Hearing held on all Pre Trial Motions, Deft. Coffey's Motion to
	Suppress Hand Writing Exemplars, Deft. Coffey's Motion for Leave to Adopt, and Join in Motions of Co-Defendants, Deft. Coffey's Motion
	to Suppress hotographic and In Court Identification, Deft. Coffey's
	Motion for 11 of Particulars and Deft, Coffey's Motion to Sever
	Counts and Compel Election, filed. Atty Curtis moves to have this
	Court issue a Protective Order against the State of Connecticut from Arresting Dennis C. TicheMotion Denied. Dennis Tiche to be put to
	plea on Monday, Sept. 8, 1975 at 10:00 A.M. Atty Craig moves to
	have his client (Anthony Just) present at all evidentiary hearings, but
	will proceed on motions attacking the Indictment w/o client being present. Deft. Coffey moves to sequester witnesses from Courtroom,
	Motion Denied. Continued argument on Bill of Particulars. Deft.
	Tiche's Memorandum in Support of Motion to Dismiss Indictment, Motion
	for a Change of Venue and Motiton for Individual Voir Dire on Jury
	Venire, filed together with exhibits, 3:30 P. M. Hearing continued to Monday Sept. 8, 1975, at 10:00 A.M. Newman, J. m-9/8/75.
9/8	PLEA: TICHE, D: Over to September 29th 1975, at 10:00 A.M.
	Newman, J. m-9/8/75.
9/8	Court that it will proceed on the following Courts 1 2 2 2 2 2 2 1 2 2 2 2 2 2 2 2 2 2 2
	Court that it will proceed on the following Counts 1, 2, 3, 7, 8 & 12, and that the following paragraphs in Count will be deleted:
-	one that the following paragraphs in count will be deleted.

1. 1. m.

DATE 1975	PROCEEDINGS
. 9/8	paragraphs 3, 4, 5, 6 & 7. Affidavit of Peter C. Dorsey with attachments re: Electronic surveillance, filed. Atty Golub requests hearing on Motionto Disqualify the U.S. Atty or in the alternative for a change of venue. Court and Atty. Nadeau discuss deft Moeller's Motion for challenging the petit jury. this matter to be settled between atty. Nadeau and the Clerk of the Court and report back to the
	Court. Deft. Bubar's given two weeks to file paper re: pre trial prejudicial publicity. Deft. M. Tiche request that the govt. make and inquiry to the National Security Agency as to electronic surveilland Deft. M. Tiche moves for the Court to Order the govt. to check the N.S. Deft. Just request that the A.T.F. be checked for electronic surveilland and mail cover. Deft. Moeller request govt, check of Postal Service and Deft. Bubar request check of the C.I.A Memorandum in Support of
	Deft. Justs Motion for Change of Venue and Exhibits I and II, filed. Motion for Leave to Join, Adopt, or Consolidate Motions of Co-Defts., Memorandum of Points and Authorities in Support of Deft's. Motion for Bill of Particulars and Memorandum of Points and Authorities in Support of Deft's Motion for Discovery and Production, filed by deft. Connors. Court and counsel for Deft, Moeller discuss the F.B.I's destruction
	of Notes, ruling reserved. Court and Govt discuss the abuse of Grand Jury Claim. Deft. Moeller orally amends the motion re: abuse of Grand Jury to include a preliminary hearing as a secondary relief. Court and counsel discuss Deft. Coffey's hand writing motion. Court reserves on Pre Trial Publicity Motion, to be heard later. Covt. Response to Motion regarding Pre Indictment and Pre Trial Publicity,
<u> </u>	respond to request. Court advises it will herr argument on publicity question to determine whether an evidentiary hearing is actually nedded
	Deft. Just request that Motion re: electronic surveillance, be a continuous motion. Atty. Neigher advise Court for the record that he is the Atty for Connecticut Magazine. Memorandum re: Motion to Dismiss filed by Deft. M. 'iche, Federal Grand Jury Hand Book, filed as exhibit to memorandum. Deft. M. Tiche moves that transcript of Instructions to second Grand Jury in this case be used as exhibit II to this motion or be filed as Court exhibit for appeals purpuose. Arguments heard
	Deft. Just's Motion for Severance and Change of Venue, Deft. D. Tiche Motion for Severance, Deft. Moeller adopts Deft Just's arguments re"Change of venue and argues the destruction of F.B.I. notes and selection of venirement Affidavit of Peter C. Dorsey, re: Publicity, filed. Court hears continued arguments on pending motions. "Deft. Just moves for the deletion of the work "racketerring" from Ct. 8. Atty Craig moves to have Deft. Just brought to this juris-
	diction of this Court. Court advises Counsel that is will sign a writ as soon as it handed to the Court. Supplemental Response of Govt. to Deft's Motions Concerning Pre Trial and Pre Indictment Publicity, file Court rules that it will arguments re: publicity in camera. All partinot involved in case leave the Courtroom. Counsel for defts request additional time to respond to Govt's response to Deft's Motions
<u>:</u>	Govt is granted additional time to file further responses to Motions. Newman, J. m-9/9/75.
.9/11	Defendant ALBERT COFFEY's Motion fo Psychiatric Examination as to Responsibility at time of Crime and Competency to Stand Trial, and Defendant Coffey's Motion to Join in and Adopt Motion of Co-defendation.

PATE 5	PROCEEDINGS
9/16	MOELLER: Motion for Inspection and Copying of Material Pertinent
	to Motions Regarding Grand and Petit Jury Selction and Composition
	endorsed as follows: Motion granted. Newman, J. m-9/16/75. copics
-0/16	mailed to counsel of record.
9/16	JUST: Marhal's return showing service, filed: Subpoena to testify.
9/16	COFFEY: Defendant Coffey's Motion to Join in and Adopt Motions
7120	of Co Defendants endorsed as follows: Motion granted, except as to
0/16	Motions for Bills of Particulars. Copies mailed to counsel of record.
_9/16	COFFEY: Defendant Albert Coffey's Motion for Pyschiatric Exam as to Responsibility at Time of Crime and Competency to Stand Trial
	endorsed as follows: Motion Granted; examination to completed by
	9/26/75. Newman, J. m-9/16/75 copies mailed to counsel
9/16	Ruling on Defendant's Request for A Hearing on Motions to Dismiss
	or Change Venue Because of Pre-Trial Publicity, filed and entered.
0/16	Newman, J. m-9/16/75, copies mailed to counsel of record.
9/16	Court Reporter's Notes of Proceedings (Pre Trial Hearing) held on Sept. 5. 1975, filed. Russell. R.
9/17	Court Reporter's Notes of Proceedings (Pre Trial Hearing) held
	on Sept. 8, 1975, filed, Gale, R.
9/17	Ruling on Defendants' Motions for Bills of Particulars, filed and entered.
	Denied in part and granted in part. Compliance shall be made by 9/23/75. Newman, J.
	m-9/18/75. Copies mailed to all counsel of record.
9/17	JUST: Petition for Writ of Habeas Corpus ad Prosequendum, filed by defendant and endorsed as follows: "Petition Granted." Newman, J.
	m-9/17/75 copies mailed to Atty. Dorsey and Craig and two certified co
	handed to U.S. Marshal for service.
. 9/18	COFFEY: Memorandum in Support of Defendant Albert Coffey's Motio
	for Psychiatric Examination, filed by defendant.
9/17	Ruling on Defendant Motions for Discovery and Inspection, filed
	and entered. Newman, J. m-9/17/75. copies mailed to all counsel of
9/19	R. BETRES: Defendant Ronald Betres' Motion for Leave to Join
-2/11	and adopt Defendant Anthony A Just's Motion to Dismiss Count Eight and
	Defendant Ronald Betres' Memorandum in Support of Defendant Anthony A.
	Just's Motion to Dismiss Court Eight, filed by defendant,
-	Government's Response to Motion for an Order Suppressing Evidence
9/19	and Prohibiting Derivative Use Thereof, filed. Response to Motions for Releif from Prejudicial Joinder of
-7/17	Defer ants and Opposition to Defendant's Motion to Sever Counts, filed
	by Government.
9/23	M. TICHE: Affidavit of Atty Thomas D. Clifford, re: pre trial
	publicity, filed.
9/22	Memorandum in Opposition to Motions to Dismiss or Change of VEnu because of Pre-Trial Publicity, filed by government.
9/23	P RETRES: Appearances of Aaron B. Schless esq. and I.
	P. BETRES: Appearances of Aaron B. Schless, esq., and J. Daniel Sagarin, Esq., filed for the defendant for the purposes of
	pre trial motions only. Copy sent to U.S. Atty.
9/23	Ruling on Fre-Trial Motions, filed and entered. Newman, J.
	m-9/23/75, copies ailed to all counsel of record.
9/23	MCFELER: Defendant Moeller's Motion for Ruling on His Previously filed Motion to Suppress and for Motion to Quash Subpoens until Ruling
-:	on Motion To Supress is Made, filed.
-	

DATE 1975	PROCEEDINGS
9/24	Pill of Tarticulars, filed by government.
• 9/25	P. BETRES: Defendant Peter Petres' Motion to Adopt Motions filed
	by Co-defendants, filed.
9/25	CONNORS: Motion to suppress Identification, filed by defendant.
9726	Bill of Particulars Addendum, filed by government.
.9/29	D. TICHE: PLEA: deferred to Cct. 1, 1975 by agreement of counsel. Newman, J. m-9/29/75.
9/29	UEADING: held on Motion to Suppress Evewitness Identification:
	Deft's Just and Coffey are present in Courtroom. Affidavit of Michael Tiche, filed, re: his presence at proceedings. 1 Govt witness, sworn
	Tiche, filed, re: his presence at proceedings. I Govt witness, sworn
	and testified. Deft. Coffey moves for sequestration of witnesses-denigneering Exhibits 1 and 1A, filed. Court Exs. 1 thru 5 marked for Iden
	Hearing Exhibits 2 and 2A, filed. Court Ex. 6 marked for Ident.
	Doft join in requesting that this hearing on eve witness identificati
	be a closed hearing with the exception of Atty Craig's Client and
	Atty Colub's Court grants request to hold this as closed hearing.
4	Court order Courtroom vacated by thos not a penty to this hearing.
	Hearing Ex. 2b, filed. Court Ex. 7. marked for ID. Hearing Ex. 2c, fi' Court Ex. 8, marked for ID. Hearing Exhibit 2d, filed. Court Ex. 9.
	marked for ID. Court Ex. 10 thru 12. marked for ID. Hearing Ex. 3
	filed. Hearing Ex. 3A, filed. Court Ex. 13, marked for ID. Hearing
	Fy 4 and 3B filed. Court Exe 14 thru 17, marked for IB. Hearing
	Fyhibits 3C 3d and 6A filed Hearing Ex. 3E filed Court Exs. 18
	thru 23 marked for ID. Hearing Exs 3F. 3C. 3H. filed. Court Ex.
	24 and 25, marked for ID. Hearing Ex 5, filed, Court Ex 26, maked for
	JD, Hearing Ex 6, filed. Court Exs 27, thru 29, filed. Hearing Exs.
·	7 and 7A, filed. Court Ex. 30, marked for ID. Court Ers. 3: thru 3/2 marked for ID, hearing Exs. 7B thru 7E, filed. Hearing Exs. 7F, 9. PA.
	10 and 0A filed. Court Exs. 35 and 36, marked for ID. 3:45 Court
·	request to hear argument on Deft. Moeller's Motion to Supress Stateme
	to Insurance Co. Counsel agree to have it on over to later in the week 3:50 Court adjourned. Newman, J. m-9/30.75.
9/30	Continued bearing on Mation to Suppress Everitness Ident:
	ly
	filed. Atty. Zalowitz and Mechan not present. Atty Sherin Reynolds is present for Atty Sagarin. Govt. Witness, Slifka, returns to
	the second areas examination having been previously sworn.
	Towns Free 37 C 38 marked for ID With Court's approval de la Donath
	lo marines wight to be present for these motion hearings. Dett.
	The state of the s
	bresent hand of \$50,000.00 with 10% surety. Gove having no objection,
	bond is reduced to 20,000.00 with 10% surety. Court adjourned at 5:12 P.M. until Oct. 1, 1975 at 10:00 A.M. Newman, J. m-10/1/75.
10/2	MOELLER: Request to the Court For Asking Voir Dire Questions.
101.	filed by the defendant.
10/2	MOELLER; Covernment's Response to Defendant Moeller's Motions
9	to Change Venue and for Severance, filed.
10/1	D. TICHE: Plea of not putity entered to Counts 1, 2, 3, 7, 8
•	2:00 P.M., until that time deft. to be remanded to custody of U.S.
	Marshal. 2:10 P.M. Court sets bond at \$5,000.00 with surety.
7	Nerman, J. m-10/2/75
. ——	

DATE	PROCEEDINGS
10/1	Hearing continues: Doft, C. ffor, Just. Conners are present.
-	This is an even herring. Tost timore more and tactified want
•	187. 10 and it. tiled. Dott. Witness storr and testified Bossins
	1485. 1/. 18 and 19. filled. Court closes bearing as Treat bearing
	continues. Deft. Conners orell reners Metter to Sever. Covt. Witness
	sworn and testified. Deft. Just moves to servester witnesses-deried. Hearing exhibits 20, 21, 21A, 22, 22A, 23, 23A, filed. Court Exhibts
	38 thru 43 marked for ID. Deft. Moeller request to cros exem witness
	re: destruction of F.B. I notes denied Coder for District Form
	re: destruction of F.B.I. notes, denied. Order for Dismissal for all defendants in Criminal No. N-75-53, filed and leave of Court is
	TELANCE DELC. JUST MOVES TO PAVE MOTE ROPON SIT OF COMPRET FRATE
	Igranted. Delt. Bubar moves to sequester witnesses-denied Court
	witness sworn and testified. Hearing eys. 24, 24A, 25, 25A, 26, 26A, 27, 26B, 26C, 26D, 26E, 26F, 28, 28A, 29 and 29A, filed. Court
	27, 26B, 26C, 26D, 26E, 26F, 28, 28A, 29 and 29A, filed. Court
	144 50 marked Lot ID. Agent holland, previously suorn resumes stand
	for continued re-direct. Hearing En 31, filed. Agent "cEvoy, previous1
10/2	R. BETRES: Marshal's return showing non est, filed. Writ of
na Kalendaria	Habeas Corpus,
10/2	M. TICHE: Marshal's return showing non et, filed. Habeas Corpus
	Imarked withdrawn.
10/2	A. JUST: Marshal's return showing service, filed. Subpoens to
	[COLLY (3)
10/2	M. TICHE: Marshal's return showing service, filed. Subpoena to
*10/2	produce (2).
* 10/3	BUBAR: Request to the Court for Asking Your Dire Questions, filed by defendant.
10/3	D. TICHE: Defendant's submission of Voir Dire Questions, filed.
10/3	MOELLER: Defendant Moeller's Motion to Dismiss the Indictment due to
·	Abuse of the Grand Jury Function, filed by defendant,
10/3	JUST: Detendant Just's Proposed Questions for Jury Voir Dire filed
10/2	l by detendant.
10/3	F SETRES: Defendant's Proposed Questions on Voir Dire, filed.
10/0	Cover filed by Court's Response to Order Regarding Existence of Mail
10/2*	Cover filed by Govt. Hearing continues on ID Suppression: Deft. Coffey's Troposed
	Voir Dire Questions of Venirement, filed. /Affidavit of Peter Shatzkin
	Regarding Improper Grand Jury and Petit Jury Scleetion and Composition.
	filed by deft. Moeller. Defts D. Tiche, D. Coppors, A. Just, and
	A. Colley are present in Courtroom. Atty Weigher, Talowitz and Mechan
	are not present. Deft. Moeller moves for time to exemine prospective
	jurors, deried. Court and Course! for the government discuss Count 8 and motions regarding that court. Deft. Connors moves to amend his
	request for Bill of Particulars, denied. Agent Paul McEvey, resumes
	stand having been previously sworn, for continued cross exam. 10.50
	Atty. Zalowitz now present for the proceeding. Court Fy 59 marked
	for ID. Govt witness, sworn and testified. Court Ex. 60 marked for
	1 10. Atty. Sagarin new present for proceeding Ugaring Fre 250
	26G, 26H, 26I, 26K, 26L, 30, 30A, 31, 31A, 31E, filed. Court Exs.
	61 thru 72 marked for ID. Govt. witness, agent Craig, previously sworn resumes stand for continued cross examination. Atty. Craig request
	permission to be absent from this afternoon's proceeding-granted.
	Hearing Ex. 32, filed. Govt. wirness, sworn and testified Bearing
	Ex. 33; filed. Court Ex. /3, marked for ID. Govt. witness, sworn
•	and testified. Court Ex. 74, marked for ID. Hearing Exs. 34-37, filed.

U.S.A.	VS. MOELLER, St als
DATE	PROCEEDINGS
1975	2 1075 Novman I m-10/3/75
10/2	Court adjourned until 10:00 A.M. Oct. 3, 1975. Newman, J. m-10/3/75
· 10/3	Hearing Continues 12:20 P.M. Detts. Colley, Combined Price Question
	Tiled by defendant Deft. M. Tiche's Motion for Discussive of herocal
·	The stand by defendant Court and counsel for detts not in
	I among the matter of dett. To be present Monday Uche Ve 12/14
	Leavening denied at this time. Court Ex. /), makken lot iv. Gove-
	Court adjourned at 1:00 P.M. until Mon. Oct. 6, 1975 at 10:00 P.M. Newman, J. m-10/3/75 Newman, J. m-10/3/75 Newman, J. m-10/3/75
	Newman, J. m-10/3/75 Newman, J. m-10/3/75 Norton Investigator, filed. Newman;
10/6	CJA 21. authorizing Robert F. Norton, Investigation
	J. copies distributed. MOELLER: Defendant Moeller's Motion Regarding Certain Procedures
10/6	
10/7	Memorandum of Decision on Pre Trial Motions, filed and entered
10/7	Norman I ma 10/8/75 copies handed to Boursel the Codicion
10/7	and our side of Diff. Doff Tenuest leave to change its pass
10/	The state of the s
	previous plea crased from the record. Doll put to pleased and govt.
	guilty to Counts 1 and 2. Deft. sworn in by clerk. Counts and gove. set forth all agreements which have been made with the deft. Remaining
The second second	counts to be dismissed at sentencing. Case continued on same bond for
	The state of the s
	The marks congruence. Affidavit of Cly (Oppel and Tenolandum of Decision on
10/6	
•	
•	
/	the state of the cath X turors excused for cause thereafter.
•	the same of the state of the st
	excused for cause. 5:20 P.M. Court adjourned to Oct. 7, 1975 at 19.00
	continuance of voir dire. Newman, J. m-10/8/75.
10/7	IVRY TRIAL CONTINUES: Court instructs Govt. to furnish list of witnesses. 10:17 A.M. Jurors surmoned for 10/7/75 brought to courtroom and administered voir direction.
	a the of the of individual veniremen. Dett. I. Dellas total
	The state of the s
	The state of the next of public record. Court adjourns at J. w
	1975 at 10:00 A.M. for continuance of voir dire. Admini, J. Maring
19/7	A server of Dishard T. Mochan as co-counsel entered for defendant BURAR.
10/8	Comment's Passanse to Order Regarding Existence of Mail Cover, Filed.
10/8	Court Property Transcript of Proceedings held on October (.19/), filed (.18)
10/8	JURY TRIAL CONTINUES: All deft's present. U. S. Atty and Cont
	discuss the deft's Motion to Disqualify. Deft's withdraw the Motion to Disqualify. Individual voir dire continues. 12 jurors excused for to Disqualify. Individual voir dire continues.
	n f. T. Ala Wation to C 1100 Pempers D' LIP JULY VEILLE LVE
	The transfer tow cause Tiled. Court did counsel director
	Total and conicd 70 jury members now present in Court for
-	additional voir dire. Counsel for deft request that Court go through
•	iury list and counsel would state their objections for cause-granted. For the limited purpose of counsel stating their objections for cause,
	This will be a closed hearing. All parties not involved are asked to
:	Court request extension of time to file fist of
	'withtessesgranted. Hearing is now reopened. 20 jurors ex 101 cause
ACCOUNTY TO SELECT THE PARTY OF	

P1475	PROCEEDINGS
10/8	Govt is given 6 challenges, lefts. given 25 challenges. 16 jurors
	to be selected, the first twelve are the panel and remaining four
	Defts. exercise challenges in the order of the names on the Indictment
	Deits, exercise challenges in the order of the names on the Indictment
•——	Jury panel of 16 drawn. The remaining jurors are excused subject to call. 5:43 r. M. The jury panel is excused until next week when
	they will be contacted by the clerk's office. Court and counsel dis-
	cuss the scheduling. Atty. Meehan moves to file further motions
	on behalf of Deft. Rubar. Court adjourned 6:00 P M until 10:00
10/9	A.M. of 10/9/75. Newman, J. m-10/9/75. D. TICHE: Memorandimed Law in Support of Motion to Dismiss for Prejudicial Pre-Trial Publicity, filed by defendant.
10/9	Prejudicial Fre-Trial Publicity filed by defendant
10/8	P? BETRES: Defendant Feter Detro's Motion to Disqualify Trial
	Judge, endorsed as follows: Motion withdrawn in open Court. Navman, J.
	m-10/9/75
10/9	Hearing Continues on Motion to Suppress Eyewitness ID: Defts
	Conmers, Coffey, Just and D. Tiche are present. This is an open hearing 1 Govt. witness sworn and testified. Court exhibit 76 marked for ID.
	Hearing Ex. 38 filed. Agent Slifka previously sworn resumes stand for
	redirect examination. Court Ex. 77 marked for ID. Hearing Ex. 39, fil
	Covt. witness sworn and testified. Court Ex. 78, marked for ID. Heari
	Exs. 40, 40A-40F, filed. Govt witness Holland, previously sworn return
	to stand for continued cross examination. Deft. Connors Notion to
	Suppress the photo in hearing Ex 400, denied. Hearing Ex. 61, and 41A, filed. Covt. witness sworn and testified. Court Ex. 79, marked for
N	ID. Hearing Ex. 42, filed. Court Ex. 80, marked for ID. Govt. witness
:	sworn and testified. Court Exs 81 and 82, marked for ID. Govt. witness
	sworn and testified, Court Exs. 83 & 84, marked for ID. Hearing Exs. 43, 43A, 44A, 44B, and 45, filed. Court adjourned 4:56 F.M.
•	until Oct. 14, 1975 at 10:00 A.M. Newman, J. m-10/10/75.
19/9	JUST: Order for Return of Fond, filed and entered. Newman, J.
	Check #318 handed to Atty. G. Craig.
10/10	EUBAR: Defendent David N. Buber's Motion for the Suppression
	of Evidence and Defendant Tavid N. Buber's Supplemental Ne for For Discovery, filed.
10/10	MOELLER: Defendant Mosller's Notion to Arcrd his "Notion to
	Dismiss the Indictment due to Abuse of the Grand Jury Tunction" filed
-10/12	Cetober 3, 1975, filed by defendant.
10/13	P. BETRE's: Defendant Feter Detres Hotion to Sever his Trial
10/1	from the Trial of the Defendent Lavid Bubar, filed by defendant. List of Witnesses, filed by Government.
10/13	Opposition to Deft. Moeller's Motion to Dismiss the Indictment
	due to abuse of Grand Jury Function, filed by Govt.
10/9	CONNERS: Marshal's return showing service, filed. Writ of
10/14	BUDAR: Motion to Dismiss For Improper Jury Array, filed by
	defendant.
10/14	Government's Response to Motion for Supression and Disclosure
	of Deft. Bubar, filed.
10/14	JUST: Appearance Bond in the Amount of \$20,000.00 with 10% surety of \$2,000.00, filed and approved Newman, J. m-10/14/75.
10/14	Hearing continues on Motion to Suppress Eyewitness ID: Motion
	to Suppress Oral Statements of Defendant Albert Coffey, filed by deft.
	Affidavit of Peter C. Dorsey, filedto be sealed. Govt witness
	sworn and testified. Hearing Ex. 46, filed. Covt. witness sworn

U.S.A.	VS. PIOGLEDIA, CC 41.
DATE 1975	PROCEEDING8
	and tesified. Covt witness sworn and testified Court Exs. 85 thru 88
.10/14	and tesitied. Covt witness sworn
	marked for ID. Hearing Exs. 47 thru 51, filed. Covt witness sworn and testified. Hearing Exs. 52 & 53 filed. Court Ex. 89, marked for and testified. Hearing Exs. 52 & 53 filed. Court Ex. 89, marked for and testified.
	Compared to the state of the st
	main the market market N Kilbar
	to contain hold on cont /1 19/1. Illelken beatter became in
	The state of the s
	The art of for In their Williams Sworth all testification
	58. filed. (2) Deft. witnesses sworp and testility. One of the
	additional evidence to come in is Bubar's Motion to Dismiss re:search of car. Deft. Moeller moves for a mistrial and for severance of tr
	from Deft. Bubar. Deft. Moeller moves for change of venue. Hearing
4	from Deft. Bubar. Deft. Moetlet moves evidence seized from the veh
	The state of the s
	adjourned at 5:20 P.M. until 10:30 A.M. of Oct. 15, 1975. Newman, J.
10/15	m-10/15/75. Marshal's Return Showing Service, filed: 111 Subpoenas to Testify; 4 Subport
10/15	
10/15	Vershal's Poturn Showing Service, Illed: Habeas corpus to
. 10/15	Government's Objection to Disclosure of Names of Specific Witnesses, filed
. 10/.5	
10/15	
:	of bond to include the State of Pennsylvania. Granted, absent objection of the Go
	argument on all pending motions. Court denies all motions charge
	of jury: motion to dismiss for reason of prejudicial publicity, werue and all motions to sever. 5:45 P.M. Court adjourned to 10/16/75 at 10:00 A.
	venue and all motions to sever. 5.45 r.m. source
	Newman, J. m-10/16/75. 10:24 A.M. Court and coussel discuss JURY TRIAL CONTINUES: 10:24 A.M. Court and coussel discuss
10/16	medical reports of J. ShawDiscovery complied with by Govt. Deft.
	Motion of Michael Tiche re: John Shaw, filed by Covt. Deft. P. Betro
	The same to a contract at 100 of 311 Williams Care The top contract the contract to the contra
	Doft Woollor moves for seguestration of all Williesses Julies
	Tall witnesses to be sequestered except the case agents until such the
	Library with access will toetify to same facts they (case agents) will be
	Told to tootify to Doft Moeller moves to remove Lawrence Zerie
	County and on that came rule applies as to case agents. Delt.
	the state of the second the second of the se
	disclosing testimony of former Withesses to heat we have
	To the stand of and she marked for III. III. III.
	Tooks administrated to jury by clerk Cour witness sworn and Lestille
	to the think of marked for Ity Court is a mane full extillity
·	I - I - I - I - TENT TENT MAYING TOT III . III district U. INC. 186
	The state of the transfer of the state of th
	Jencks Act Exs. 3504-3500, marked for ID. Covt Ex. 4C made full exhibits. In the Govt Ex. 6, marked for ID. Covt Exs. 1 & 2 made full exhibits. In the covt Ex. 6, marked for ID. Covt Exs. 1 & 2 made full exhibits. In the covt Ext. 6 marked for ID. Covt Ext. 1 & 2 made full exhibits.
	GOVE EX. 6, married for 1D. GOVE EX. 1 & 2 field toxx toxxist and al
	absence of jury Court hears arguments re: Jencks Act material and all as to sketches and news coverage of this trial. Order and Acceptance
	las to sketches and news coverage of this triat.

DATE	PROCEEDINGS
10/16	re: John Shaw, filed by Covt. Court order that there will be no
	sketches drawn by any party of the defts, in this case. Govt. witness
•	Talalay returns to stand for continued cross exam. Joneks Act Exs.
	3510-3527, marked forciD. 2 Covt. witnesses overn and testified. In
•	the absence of the jury Court hears argument re: Gout question to witner
	Deft. D. Tiche request reduction of bond to original bond of \$2,000.00
	non surety and same travel conditions, granted sheart chi tion from Covt. Deft. Coffey moves to have news media refrain from Clming
*	defts as they are brought into Courthouse. Court rules that he will
	have the U. S. Marsha's clear the immediate area of film or new men
	however cannot control the street area of parsons. Court adviser counsel handed up a note re: fire. Court In 1, marked for ID.
	Deft. P. Estres moves for a voir dire of inters re: Note-denied.
-	Court advises course! of secheduling problem from imor. Court will
	start hearing evidence at 2:00 TM on Monday Cot 20 1075
	Start hearing evidence at 2:00 F.M. or Monday, Cot. 20, 1075. Court Ex. 2 marked for ID. Jury returns to Courtmoon. Two Covt wit-
	nesses sworn and testified. In the absence of the igen Court and count
	nesses sworn and testified. In the absence of the jumy Court and count discuss admission of Ex #3. Covernment witnesses- Supplemental List #1
	filed. Court Ex 3. marked for ID. 5:65 P.M. Court adjourned till
	10:00 A.M. of Oct. 17, 1975. (Jurors excused at 4:52 P.M.). Newman, J.
10/17	m-10/17/75.
10/17	Marshal's return showing service, filed. Subposed to testify (7)
	Subpoens Tickets (19), Subpoens to Produce (1) all placed in brown envelope unsealed
10/17	F. BETRES: Motion for Leave to Withdraw as Counsel, filed by
_10/1/	Atty. L. Marting.
10/17	JURY TRIAL CONTINUES: 10:20 A.M. Govt Exs. 7. 7A thru 7D.
	marked for ID. Jencks Act Exs. 3528-3530, marked for ID. Deft. Moeller
	moves to have Lawrence Zelle removed from the Courtroom, denied.
<u>:</u>	Deft. Coffey moves for a mis-trial or evidentiary hearing-denied. Deft. Connors joins motion for mis-trial-denied. Deft. Connor's, Just's
	and Bubar's Motion for severance, denied. 10:43 A.M. Jury enters
	Courtroom, Govt. witness sworn and testified, Govt. Exs. 3, 5 and 5A,
	made full exhibits. Govt Exs. 8. 9A 9B and 10. filed. Govt Exs. 7. 7A
	thru 7D, made full exhibits. Govt Exs. 11-14, filed. Deft Exs. 1900-102
	marked for ID. Govt Ex. 15. marked for ID. Deft Exg. 1000-1023 made
	Full exhibits, 5:02 P.M. Jury excused until 2:00 P.M. on Oct. 20, 1975.
	5:04 P.M. Court adjourned until 11:30 A.M. on Oct. 20, 1975, Newman, J. m-10/20/75.
10/20	P. Betres: Motion for Leave to Withdraw As Counsel endorsed
	" Motion granted " Newman I m-10/20/75 conius sent to II S Atty
	Atty Sagarin and Martino Marshal's Return Showing Service, filed: 24 Subpoenas to Testify; 12 Subpoena
10/20	Marshal's Return Showing Service, filed: 24 Subpoends to lestify, 12 Subpoends Tickets; 2 Subpoends To Produce.
10/00	
10/20	List of Exhibits, fl of by Government. IDENTIFICATION SUPPLESSION HEARING CONTINUES: Defts. Just,
10/20	P. Betres, R. Betres, D. Bubar and D. Connors move to be absent from
	Courtroom. Deft. Coffey Joins tion-motion granted. Copy of Trans-
	cript of John Shaw, in Appearance At Superior Court, filed by govt.
	Court voir dires Deft. Shaw re: gul plea entered in this Court.
-	The guilty plea is to remain. Govt witness sworn and testified. The
	agreement of Govt., Deft. John Shaw and his counsel, filed by govt.
	220 P. M. Jury Trial Continues: Jury enters: Courtroom 16 members presen
-	Govt. witness Amrol r mes stand fro continued cross examination. Deft
	Ex. 1024, filed. Govt. witness sworn and testified. Deft. Just moves

U.S.A.	S. MOELLER, et als PAGE NINE CELHINAL NO. Nº75-39
DATE	PROCEEDINGS
1975	
10/20	for a severance from Deft. Connors and Moeller, ==denied. Deft. David
	Subar's Brief in Support of His Motion to Suppress Certain evidence.
	Jencks Act Exs. 3531 and 3532, marked. ID Suppression Hearing
	continued in absence of the jury. Govt. witness, Shaw resumes stand
<u>•</u>	for continued cross exam. 4:20 P.M. Jurors are excused until 10:00 A.M.
<u> </u>	on Oct. 21, 1975. Jencks Act Ex 3528A, marked for ID. Jencks Acts
	Exs. 3528B, C, and D, marked for ID. 6:05 P. M. Court adjourned. Newman
10/21	J. m-10/21/75. JURY TRIAL CONTINUES: In the absence of the jury Court hears continued argume
	on identification. Govt. witness Shaw resumes, stand. Ruling deferred. Deft. Tiche
	request voir dire of jury re newspaper article. Court Ex. 4, marked for Ident. Deft.
	Bubar's Motion to Suppress is denied. Deft. Moeller's renewed motion to sever, denied.
	11:10 A.M. 16 Jurors present. One Govt. witness sworn and testified. Govt. Fx. #16,
	17,18,19 and 21, filed. Govt. Ex. #20, marked for Ident. In the absence of the jury,
- 1-	Court hears renewed motions of defts. Court hx. #5, marked for Ident. 5:05 P.M. Jury
	excused til 10/22/75. 5:35 P.M. Court Adjourned. Newman, J. m-10/22/75.
10/22	Motice (Govt. list of witnesses to be called after completion of Shaw testimony), filed.
10/00	THE RESERVE OF THE PARTY OF THE
_10/22	Marshal's Return Showing Service, filed: 21 Subpoenas to Testify
10/22	and 12 subpoens tickets. JURY TRIAL CONTINUES: Govt. Exs. 22, 22A, 22B, marked for ID.
	Jencks Act Ex 3528E, marked for ID. In the absence of the jury Defts.
	Just and P. Betres move for voir dire of juror; re: newspaper article.
	Court Ex. 6, marked for ID. Deft. D. Tiche moves for severance-denied
	Deft. R. Betres moves for voir dire of jurors re: publicity and severe:
	from Deft. P. Betres, #1 granted. #2 denied. Govr. witness, Shaw,
<u>·</u>	Govt. Exs. 20, 22, 22A, 22B, and 6 made full exhibits. Deft. Connors
-	Just, Coffey and Bubar move for mis-trial-denied. Court allows hearing
· · · · · · · · · · · · · · · · · · ·	into Courtroom Identification. All persons present at pre-trial discuss
•	of in Court Ident of deft. Shaw of other defts are sequestered. 5 deft.
	witnesses sworn and testified. Deft. Just moves for mis-trial, Deft.
	P. Betres moves for mis-trial and the suppression of Identification
	testimonyall motions denied. Govt witness Shaw resumes stand for
	voir dire re; Jencks Act material. Deft. witness, McNamara resumes stan
1	tor continued direct re: Jencks Act material. Decision reserved.
	Brief to be submitted. Jencks Act Exs. 3528F-3528Y, merked for ID.
	Sealed D cument #2, filed. Marshal's report re: Witness Protection Program. Govt. witness, J. Shaw resumes stand for cross examination.
	5:05 P. M. jury excused until 11:30 A.M. 10/22/75. Court hears motions
M-10/2	Formmis-trial and severance-denied. 5:4/ P.M. Court adjourned. Newman,
10/23	Government's Response to Defendant Bubar's Motion for the
10/25	Suppression of Evidence, filed.
10/23	Affidavit in Support of Objection to Disclosure of Names of Wit=
	nesses.
10/23	JURY TRIAL CONTINUES: 11:52 16 Jurgrs present. Govt. Witness,
	Shaw resumes stand for continued cross examination. Deft. Ex 1025,
	marked for ID. Govt Ex 1025 made full exhibit. In the absence of jury
	Govt witness Shaw is voir dired by the Court at side bar. Court and
	counsel discuss the area of questioning at side bar. Jury returns and
•	cross examination continues. Dett. Ex 1025, marked for ID, Deft. Ex.
	1026, made full exhibit, 5:04 P.M. Jury excused until Oct. 28, 1975 at 10:00 A.M. Govt.witness Shaw is voir dired re: Arson in W. Dist.
	of Pa. Ruling deferred. Deft. Just moves for mistrial and severance
	5:27 P.M. Court adjourned. Newman, J. m-10/24/75
	1

1975	PROCEEDINGS
10/28	JURY TRIAL CONTINUES: In absence of the jury: Deft, witness Mc
	Namera previously sworn resumes stand for voir dire re: Jencks Act
•	Material Court witness Staw resumes stand for continued cross examinal
	11.16 A W 16 jurge present. Deft. Exs 1027 and 1028 marked for 10.
	nest Fre 1027 and 1028 made full exhibits, Dett. Ex 1029 total 1021
	marked for ID. Deft. Ex 1032 filed. Deft. Ex 1033 marked for ID.
	Deft. Ex. 1033 made full exhibit. In absence of jury court hears
	objections to the last two deft. exs. Deft. Tiche moves for mistrial
	and severance-denied. Deft Ex 1034, filed Deft. Ex 1035 marked for
	ID. Deft. Ex 1035 made full ex. Deft. Exs 1036 and 1037 marked for ID. 4:54 P.M. Jury excused until 10 A.M. of 10/29/75. 5:00 P.M.
	10 mail 11 mail 10/29/75
10/10	Court adjourned. Newman, J. m-10/29/75. Marshal's return showing service, filed: 10 Supoena tickets,
10/28	Take the tracking and & subnoons to produce. In unsealed envelope,
- 10/00	
10/22	THE THE PROPERTY CONTENTINGS AND THE PROPERTY OF THE PROPERTY
10/29	In-cett to William Clendenen, Ir., filed, GOVE EX. 23, marked 101 10
	the state of the s
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	. I C
	The management of the state of
	witness Shaw resumes stand for continued cross. Pursuant to note from
	from jury to Court all detts. are identified with their counsel. Court
	Exs 8 and 9 marked for ID. Govt Ex. 23 made full ex. RE: Court Ex. 8
	note from from jury re: photo, the Court will let remaining jurors see photos later this afternoon. 2 Govt witnesses sworn and testified.
••	List of Witnesses to be called by Government, filed. Jencks Act Materi
<u>·</u>	TAPA 1710
1	The state of the s
-	
Marian .	marked for ID Court hears argument rev Jencks Act material . J.45 1.1
	Court adjourned. Newman, J. m-10/30/75
XXXXXX	TOUTUUT TOUT TO THE PARTY OF TH
	JURY TRIAL CONTINUES: 16 Jurors present. Covt. Ex. 25, 25A and 26, filed.
10/30.	- 17 07 - 1 20 Lad for Ident Doft. Fx. 1938, marked for ident. School
	The same of the same same same same same same same sam
-	The state of the second day to the three of one nuror. Court takes up tuental account
·	the desired of the dury re deft. Bubar's motion to suppless. 2 tove.
	The state of the time of the times the stake by dell. Subat the
	I a a a a a a a a a a a a a a a a a a a
10/31	The same water committee 16 liveare progent. Index Act Faction
	The state of the s
	Ident. 13 Govt. witness swern and testified. 5:10 P.M. Court adjourned to Nov. 3,
	1975 at 19:00 A.M. Wewman, J. m-11/3/75. JUST: CJA form 21 authorizing free transcript of portion of testimony of
10/31	witness Amerol, filed and approved for \$199.00. Newman, J. Copies distributed.
11/3	U. S. Marshal's service, filed: 3 Subpoena tickets; 3 Subpoenas to Testify;
- 12/3	I Calainese to Broduce
11/3	
· 11/3	THE PROPERTY CONTINUES - HOSPING CONTINUES ON ID SUUDICABLUM AM SINGE
A	sheence of the tury. I Govt. witness sworn and testilled. Jenors not
,8	material 3584-3621 marked, 11:20 A.M. 10 jurces present. 1 Government
*	witness sworn and testified. Govt. Ex 37 and 39, filed. Govt. 38
2 -	

ann 3

1975	PROCEEDINGS
11/3//	5 cont.: marked for ID. Dett. Exs. 1039 and 1040, tiled. Dett. Exs.
	1041 and 1042 marked tor ID. 5:04 P.M. Jury is excused. Court
	and counsel discuss tuture witnesses. 5:20 P.M. Court adjourned
	until 10:00 A.M. in this matter, on 11/4//5/ Newman, J. m-11/4/75.
11/4	JURY TRIAL CONTINUES: Govt. Ex 40 marked for Id ID Suppression
	nearing continues in the absence of the jury, I Govt, witness sworn; and
	Lestilled. Jencks Act material 3627-3635 marked for Ident
	Delt. Connor's orally withdraws motion to suppress ID 10.43 16 incor
	present. 1 Govt. witness sworn and testified. In the absence of the
	jury Id Suppression hearing continues: 1 Govt. witness sworn and testi-
	tied. Mocions on behalt of Deft. Just to suppress photographic and In Court ID, denied. 1 Govt. witness sworn and testified. Govt. Ex.
	41, Illed. Govt. Ex. 42 marked for ID. Deft. R. Retres moves for
	mistrial and severance-denied 2 Court witnesses success and tables
	Govt. Ex. 43, filed. Defts P. Betres and A Just move for severance
- : -	denied. 5:00 P.M. Jury excused. CourtEx #/, marked. 5:04 P.M. Court
11/5	adjourned. Newman, J. m-11/6//J.
11/3	JURY TRIAL CONTINUES: Govt Exs. 44-50 marked for ID. 10:24 16
	cross. Jencks Act material 3636-3659, marked for Ident. Deft. Ex. 1043
	filed. 1 Govt. witness sworn and testified. Govt. Exs 44-50 made tull
	1500 1 GOVE WILLIESS SWOTH and testified. DIUI P.M. fury excused until
	10:00 A.M. of 11/6/75. In the absence of the jury govt witness to
	Wolr dired re:check. D:10 P.M. Court adjourned until 10:00 a M of
10/21	11/6/75. Newman. J. m-11/7/75.
10/31	CJA Form 20 appointing W. Paul Flynn, Esq. to represent, witness
11/6	Suffley Marie ropes, filed, Newman, J. copies distributed
	Notice of Appeal, from Court's Dismissal of Count Eight, filed by Government.
11/6	JURY TRIAL CONTINUES: Govt. Exs. 51 through 53 marked for ID.
	10:42 16 jurors present. 6 Govt. witnesses sworn and testified.
	GOVE. Ex 31 made full ex. 1 Gove, witness sworn and testified. Coursel
	orally stipulate to testimony of 3 witness re: P. Betres. 4 Govt.
	witnesses sworn and testified. Govt. Exs. 52 & 53 made full exs.
	In the absence of the jury Court hears testimony in ID Suppression hear-
	ing. Govt. Ex. 54, marked for ID. 1 Govt. witness sworn and testified.
	Motion to Suppress Id. denied. Jury remembers Courtroom. 3 Govt witness sworn and testified. Govt Ex. 50 made full ex. Govt. Ex 55 & 56, filed.
	Defts. D. Tiche, M. Tiche, D. Bubar and R. Betres move to be absent from
	the Court on 11/1/15 granted. 5:03 P.M. Jury excused. 5:19 P.M. Court
	adjourned. Newman, J. m-11////5/
11/5	Marshal's return showing service, filed: 1 subpoena to testify
¥32 /2 /2	2 subpoena tickets, and 1-subpoena to produce.
*11/7/7	
_11/7	Memorandum of Decision on Defendant Bubar's Motion to Suppress, filed and entered. Motion is denied. Newman, J. m-11/7/75 copies
	distributed in Court to all counsel
11/7	M'RY TRIAL COUTTINES: Identification Suppression "caring contined in the absence
	of the jury. 3 Covt. vitnesses sworn and testified. Motion denied. 10:55 A.M. 16
<u>:</u>	Jurors present. 6 Govt. vitnesses sporm and testified. Govt. Fx. #57 and 59, filed.
	Teneks Act Material 3661 to 3665, mated for Ident. 4:17 P.M. Court adjourned to
	lov. 10, 1975 at 10:00 A.M. Mesman, J. m-19/10/75.
11/10	Marshal's Peturn Shewing service, filed: 2 sulpuens tickets; 2 subpeens to
	testify and one subpoena to produce.

DATE	PROCEEDINGS
11/10	CJA Form 21 authorizing partial trial transcript, filed.
-	Norman I copies distributed, (COFFEY)
-33770	Rosenstein, M.D. to examine dett., tiled Newman, J. copies distributed. JURY TRIAL CONTINUES: Deft. move for voir dire of jury panel
	113-14- 10.21 A M IN HITOTS Dresent, J GOVE Without Since
	the state of the s
	TO COL EUR AU MAN III TILAN. HOULA DAS VOD WING VOT
	67 G, 68, 68A-66G, 69 and 70; 111td. ID. Jencks act material 3666-3670, marked for ID. 4:03 P.M. Court adjourned until 10:00 A.M. ot 11/11/75. Newman, J. M-11/11/75.
11/11	CJA Form20, executed and approved. Newman, J. copies mailed to
11/11	A O for narmont re' KODE
11/11	THE TOTAL CONTINUES. Deft Ex 1045 marked for 10. 10.10 A.F.
	16 jurors present, Govt. witness Oliver returns to stand for continued
	12 man Court Fre 66C and 66R made full exhibits, Gove Exs /1 & /
	filed. Jencks Act material 3671 and 3672 marked for ID. Deft, Ex. 104
1	made full exhibit. Deft. Ex. 1046, filed. Deft. Exs. 1047 and 1048, mar for ID. Deft. Exs. 1049 and 1050 marked for ID. Govt. Ex 73, filed.
	F Court witnesses sworn and testified Dell. EX. 1001 marked for 10.
	I was for Discourse files Attidayit of Kichard Meenall, al.
	Filed under soal as exhibit A to Motion to withdraw as doubter.
	**5.13 P M Court excuses jurors. 5:55 P.M. Court adjourned until 19.0
	A.M. of 11/12/75. Newman, J. m-11/12/75. Marshal's return showing service, filed: 4 Subpoena tickets,
11/12	3 Subpoena to testify, and 1 Subpoena to produce.
·*11/7	Certified copy of Notice of Appeal and docket entries, mailed
11/13	WOTT TENU Defendant Moeller's Motion for Psychiatric Chamitation
*	Defendant Rubar and/or Severance of Defendant Moeller, filed. JURY TRIAL CONTINUES: 16 jurors present. Witness Wilhelm resumes stand for
11/12	2 Court withdress sworn and testified. Govt. IX. /4,/3,/0,//,0,/9,00
	186 06 11 6 Ti Part Tu 8/ 85 86 87 88 88(A) and 8". Tiled. Dell. IA.
	trace to and the marked for Ident lencks Act Material "30/3-30/", Hathed for Ident.
	the contract of the state of th
	suppress. Govt. Fx. 90, marked for Ident. 5:55 P.M. Court adjourned to 11/13/75 at 9:30 A.M. Newman, J. m-11/13/75.
11/12	Momorandum on the Admissability of Telephone Toll Records, filed by Gove.
	Tiche moves for pollin
	of jury re: publicity. Deft. Connors, M. Tiene, and b. Tiene and for ID. severance from Deft. Bubar-denied. Court Exs. 10 & 11, marked for ID.
	10:30 16 jurors present. 3 Govt. witnesses sworn and testified. Deft. Ex. 1055, marked for ID. Jencks Act material 3677 and 3678, marked for ID.
	Ex. 1055, marked for ID. Jeneks Act material Court Ex. 12 marked for ID
-	the jury voir dire of witness Jennings continues. Continued hearing
	Motion to Suppress morning statement of A. Coffey is granted. Court an
1	Counsel discuss the order of the defense cases. Deft. P. Betres motion for mistrial-denied. 5:30 P.M. Court adjourned until 9:45 A.M. of
-	11/14/75. Newman, J. m-11/14/75.
**	TITIE NEW MAIL, N. M. TITIE N.
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DATE	PROCEEDI™3_
11/11	CONNORS: CJA Form 21 authorizing partial transcripts, filed.
11/11	Newman, J. copies distributed.
11/14	BUBAR: Defendant Reverend David Bubar's Metion for Psychiatric Framination of
	Co-Defendet Charles D. Moeller and/or Severance of Defendant Reverend Pavid Pubar, fi
. 11/14	Second Addenda to Bill of Particulars, filed by Govt.
11/14	Marshal's Return showing service, filed: One suppoena to testify; I subpoena
11/14	JURY TRIAL CONTINUES" Hearing Exs. 61-64 filed. Govt. Ex. 91
-1/4	marked for ID. Deft, Coppors request voir dire of jury re: publicity.
	marked for ID. Deft. Connors request voir dire of jury re: publicity. Court Ex. 13, marked for ID. 10.14 A.M. 16 jurors present. 4 Govt.
	witnesses sworn and testified. Govt. Ex 91 made full ex. Jencks mater
	3679, marked for ID. Defts R. Betres, M. and D. Tiche and A. Júst requirement of the Court this afternoon and Monday granted 2 Govt
	to be absent from Court this afternoon and Monday-granted, 2 Govt. witnesses sworn and testified. Govt. Exs. 92-99 marked for ID. 2 Gov
-	witnesses sworn and testified. Jencks material 3680, marked for ID.
	4:59 P.M. Jury excused until 10:00 A.M. of 11/17/75. 5:05 Court
	adjourned Neuman I m-11/17/75.
11/14	Marchal's return showing service, filed: Subpoena to produce.
11/17	JURY TRIAL CONTINUES: Govt Ex. 100 thru 102, marked for ID. 10:28 A.M. 16 jurors present. Govt. witness Parker, resumes stand for
	continued direct exam. 2 Govt. witnesses sworn and testilled. Govt.
	102 filed In the absence of the Jury Court hears argument re;
	evidence to be presented about Deft. Bubar's statement. I Govt. withe
	eworn and testified Jury returns. 3 Govt. witnesses sworn and testi
	3:05 P.M. Jury is excused until 12:00 P.M. of 11/18/75 S:15 Court
. 11/18	
	claims regarding the admissibility of toll calls, and rules accordingly,
	Court Fy 1/2 marked 2:25 P.M. 16 jurors present. 1 Govt witness sworn
•	and testified. Govt. Ex. 104, filed. Govt. Exs 105-107, marked for
	ID. Jencks Act material 3681-3683, marked for ID. Govt. witness sworn and testified. Govt Ex 108, filed. Govt Exs 90, 92 thru 98, 100
	101 106 and 107 made full exs. 5:07 P.M. Jury excused until 10:00 A.F.
	of 11/19/75. In the absence of the jury Court hears claims regarding
	11 records in Fy 70 and argument regarding proposed stipulation of
	Govt, and Deft, Connors. 5:56 P.M. Court adjourned. Newman, J. m-11/1
11/17	CJA Form 21 approving payment of \$50.00 to Marc A. Rubenstein,
	M.D., filed, Newman, J. copies distributed, (COFFEY).
11/18	CJA Form 21 authorizing partial trial transcripts, filed.
	Newman, J. copies distributed, (COFFEY)
11/18	Marshal's return showing service, filed. 1 Subpoena to testify
11/10	JURY TRIAL CONTINUES: Deft Tiche moves to have jury panel voi
11/19	dired on newspaper article in N.H. Reg. on 11/18/75, motion granted.
	dired on newspaper article in N.H. Reg. on 11/18/75, motion granted. 16 jurors present. Counsel stipulate for the record that if a Mrs.
	Mackey were to testify she would state that deft. R. Betres was on duty
	at work on 2/17/75, but was not at work on 2/28/75. Witness Reale
	resumes stand for continued direct exam. Govt. Ex. 109, filed, and Govt. Ex. 99 made full ex. Govt. Ex. 105 made full ex. Deft. Ex. 105
	and 1057 filed. Govt. witness sworn and testified. Govt. Exs. 74-83 a
	110, filed, 5 Govt, witnesses sworn and testified, Govt, Exs. 111 at
-	112, marked for ID.* Defts. D. Tiche, M. Tiche, R. Betres, and A. Just request to be absent from the rest of this weeks proceedingsgranted.
	* 4:68 P.M. Jury is excused until 10:00 A.M. of 11/20/75. 5:23 P.M.

DATE	PROCESSDINGS
11/19	Court adjourned, Newman, J. m-11/20/75.
11/20	Designation of Record on Appeal, filed by government.
11/20	HIRV TRIAL CONTINUES: 16 jurors present. 3 Govt. vitnesses sworn and
	testified. Govt. Fr. 113,114,115,116,117,118,110,120,121,123 marked for Ident.
	Covt. Fx. 122, 124,125,126,127, 128 filed. Peft. Fx. 1058, filed. 5:24 P.M. Court
	adjourned to 11/21/75. Newman, J. m-11/21/75.
11/21	Marshal's return showing service, filed: 3 Subpoena to testify.
11/21	JURY TRIAL CONTINUES: In the absence of the jury the Court
	instructs Counsle to submit their ex parte applications for the
	issuance of subpoena at government expense. 10:20 A.M. 16 jurors
	present. Govt. witness Powell resumes stand. Govt. Ex. 130. filed. Deft. P. Betres moves to have his bund reduce from \$50,000.00 with
	10% deposit to bond of \$25,000.00 with 10% deposit-motion granted.
	Deft. P. Betres moves to be absent from the afternoon proceedings-
	granted. Two govt. witnresses, sworn and testified. Govt. Exs. 120 and
•	114 and 117 made full exhibits. 4:28 P.M. Jury is exucsed until
	10:00 A.M. of 11/24/75. 5:16 P.M. Court adjourned. Newman, I.
	m-11/24/75. * Govt. Exs. 118, 119 and 113 made full exs.
11/20	TICHE, D.: Court reporter's Sound recording of Proceedings (Plea)
	held on Oct. 1. 1975, filed Gale R
11/20	SHAW: Court Reporter's Sound Recording of Proceeding (cop)
	held on Oct. 7. 1975, filed, Gale, R.
11/21	CJA Form 21 authorizing partial transcripts of trial proceedings
	filed. Newman, J. copies distributed. (D. TICHE)
11/21	JUST: CJA Form authorizing and approving payment of \$36.00
11/0/	to Court Reporter Gerald Gale, filed, Newman, J. copies distributed.
11/24	JURY TRIAL CONTINUES: In the absence of the jury Court hears
•	Deft Bubar's motion for issuance of subpoenas at govt expense. Hearing Exs 65 and 66 filed, Govt. exs. 131 thru 140 marked for ID.
	10:35 A.M. 16 jurors present. two Govt. witnesses sworn and testified.
	Deft. Ex. 1059, filed. In the absence of the jury Deft. Bubar waives
	his atty-client privilege with Mr. Nixon. Court and counsel discuss
	testimony of the witnesses. Motion to Strike is denied. 3 Govt. witness
	sworn and testified. Excerpt of Proceeding of Nov. 24, 1975, filed by
	Gale, R. 5:03 P.M. Jury excused. Court hears claims regarding the
	admission of statement by deft. Connors. 5:44 P.M. Court adjourned.
	Newman, J. m-11/25/75
11/25	JURY TRIAL CONTINUES: In the absence of the jury Court and
	Counsel discuss the testimony of Cayse C. Wilson. Jencks Act materail
	3685, marked for ID. 10:35 A.N. 16 jurors present. Govt. witness Talalay resumes stand. Govt. Ex 142, marked for ID. Ex Parte Applicati
- X +	for Issucance of Suppoenas at Covt Expense filed by defr. Conners
-	for Issucance of Subpoenas at Govt Expense, filed by deft. Connors. 5 Govt. witnesses sworn and testified. Govt. Exs. 141 and 143, filed.
	5:25 P.M. Jury is excused until 10:00 A.M. of Dec. 1, 1975. 5:27 Counse
	excused until 10:00 A.M. of 11/26/75. Court remain in session for
	another matter. Newman, J. m-11/26/75.
11/25	Record on Appeal sent U.S. Court of Appeals. Copies of docket sheet, and
	Index sent counsel of record.
11/26	Hearing held on all pending motions: Govt's Motion and Support-
	ing affidavit in objection to the disclosure of the names of two witnes
-	orderes sealed by the Court subject to inspection by a reviewing Court.
Last .	Motion for Psychiatric Examination of Deft. Bubar by Deft. Moeller,
Com.	denied for reasons stated in open Court. Motion for Psychiatric Exam
-	of Deft. Moellerby Deft. Bubar, denied for reasons stated in open Court
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U.S.A. v	vs. MOELLER, et als PAGE TWELVE CRIMINAL N-75-59
	PROGREDINGS
DATE	PROCEEDINGS
1975	1 - 1 - Waster for Discourse Hearing Pu 67
11/26/	Decision reserved on Govt's Motion for Discovery. Hearing Ex. 67,
	filed. Court next hears argument on Rule 29 Motions to dismiss
	certain Count of the Indictment and for Judgment of Acquittal.
	Memorandum of Law in Support of Motion to Dismiss Count 12 of the
	Indictment, filed by deft. Connors and D. Tiche. Court defers rulin
	on Motion referring to Count 12 and defers raling on Deft, Connors
	Motion to Dismiss Indictment. All Motions for directed verdict are
	denied. Court rules the order for defense cases shall be 1) Bubar,
	21 Moeller, 3) Connors, 4) P. Betre, 5) D. Tiche, 6) A. Coffey,
	7) A. Just, 8) R. Betres and 9) M. Tiche. Court will hear counsel
	on the record one at a time regarding is issuance of subpoenas at Govt. Expense. 3:04 P.M. Court in recess in this matter. Newman, J.
22/04	m-11/28/75.
11/26_	Marshal's return showing service, filed. 1 Subpoena to testify 1 Subpoena ticket.
11/28	Copy of Scheduling Order from the U.S. Court of Appeals, filed
11/20	and entered. Fusaro, C. m-11/28/75. copy sent to U.S. Atty.
12/1	BUBAR: CJA Form 23 (Financial Affidavit), filed by deft. BUBAR.
12/1	JURY TRIAL CONTINUES: 16 jurors present. Govt. witness Law .c.
141.	Zelle returns to stand for continued re-direct. Govt. Exs. 131 thru
	and 142 made full exhibits. Stipulation between Govt. and Deft. Con
	regarding his statement is read in open Court. 1:08 P.M. Govt. rest
	Court defers ruling on Deft. Connors motions. 1 Deft, witness sworn
-	and testified. Deft. Exs 1060 thru 1150 marked for ID. Deft. P. Be
	moves for severance and mistrial-denied. 4:20 P.M. Court exucses ju
	until 10:00 A.M. of 12/2/75. 4:25 P.M. Court adjourned. Newman, J.
	m-12/1/75
12/2	Following documents filed under seal per Judge Newman: (1) Ex Parte Application to Subsect Out of State Witnesses Under the Color Desired
	for Permission to Subpoena Out of State Witnesses Under the Crim. Justice Act, etc
	filed by deft. Coffey; (2) Defendant Peter Betres' Ex Parte Request for Witnesses,
	(3) Defendant Peter Betres' Affidavit in Support of Request that Suppoenas be issue
	filed; (4) Ex Parte Application for Issuance of Subpoenas at Government Expense, f by deft. Connors; (5) Application (Ex Parte) For Autority to Issue Subpoenas at
	Government's Expense, filed by defts. M. Tiche and D. Tiche.
12/1	CJA Form 21 approving payment of \$349.50 to Court Reporter Ger
	Gale, filed. Newman, J. copies distributed (CONNORS).
12/2	Marshal's return showing service, filed: Writ of H.C. and
	1 Subpoena to testify.
12/2	JURY TRIAL CONTINUES: Deft. Ex 1151 and 1106(a) marked for ID.
	Atty Zalowitz moves for a weeks continuance. Court rules that it wil
	not be in session on Wed, and will continue on Thurs and Fri. unless
	the Court is notified by 2:00 P.M. If Atty. Zalowitz is to be absent
	Thurs and Fti., deft. Bubar is to be represented by Atty. Meehan, wh
	other deft case proceed. If this is not acceptable case will continued the state of
	on Thurs, 11:06 A.M. 16 jurors present, Defts, Exs 1061, 1063, 1064,
	marked for ID. 4 deft (Bubar) witnesses sworn and testified. 4:30
	Betres move to be absent from the rest of this weeks proceedings-gra
	4:35 P.M. Court adjourned. Newman, J. m-12/3/75.
_12/4	Nov. 26, 1975; Nov. 28, 1975 and Dec. 1, 1975, filed under seal and are for inspec-
	Nov. 26, 1975; Nov. 28, 1975 and Dec. 1, 1975, filed under seal and are for inspectionly by a reviewing court (per Judge Newman).
	only by a reviewing court (per Judge Newman).
ANDERSON	

DATE	PROCEEDINGS
-12/4	Marshal's return showing service, filed. Subpoena to Produce.
12/4	JUNI INIAL CUNIINUES: Delt. P. Betres moves for severance
	Idenied. Atty Sagarin moves for the admission of Atty James Los for
•	The purposes of this case only-motion granted heft the 11ch to 11ch
	IMAIRED IOT ID. 4 DEIL. (BUBAK) Witnesses sworn and testified Deft To
	of 12/5/75. In the absence of the jury Court hears Atty. Zalowitz re-
	garding the scheduling of witnesses. Deft. Exs. 1167, 1170 thru 1174
	12/5/75. Newman, J. m-12/5/75.
12/5	Record on Appeal received by Clerk, U.S.C.A. and receipt acknowled
12/5	DUBAK; COPY OF Order from U.S.C.A denving the Writ of Mandamus
10/5	11'ed. Fusaro, C. m-12/5/75.
_12/5	JUST: ORDER for Return of Bond, filed and entered. Newman, J. m-12/5/75.
12/5	BUBAR: Marshal's return showing service, filed: 4 Subpoena to
	testity.
12/8 *	JURY TRIAL CONTINUES: 15 INTEREST CO. 1
)	dere metter, swith and testified. Dett. We 1178 morted for Time
	Judgment of Acquittal, filed. 5:00 P.M. Court adjourned to 12/9/75 at 10:00 A.M.
	Newman, J. m-12/9/75.
12/5 *	JURY TRIAL CONTINUES: 16 jurors present. Eight Deft. (BUBAR)
	witnesses sworn and testified. Atty. Clendenen moves to quash subpoera
-	for Deft. John W. Shaw, motion is granted, 4.55 P M. Tury excused
	Deft. Exs. 1156 and 1177 filed. 5:10 P.M. Court adjourned. Newman, J. m-12/8/75.
: 12/9	COFFEY: 2 CJA Form 21 approving payment of \$88.50 and \$280.50
	to Court Reporter, Gerald Gale, filed, Newson, J. copies idistributed.
12/9	JUKY TKIAL CONTINUES: Dett. Moeller resumes stand for continued
	direct examination. Deft. Exs 1196-1201, filed. Deft. Ex. 1195, marked
	for ID. 3:56 P.M. Jury excused until 10:00 A.M. of 12/10/75/ 4:00 P.M. Court adjourned. Newman, J. m-12/10/75.
12/10	JURY TRIAL CONTINUES: Court Reporter's Transcript of Sidebar
	Conference held on 12/5/75, filed under seal. Atty. Criig moves for
	admission of Atty. Frederick S. Newman, of White & Case, for the purpor
	of a Motion to Quash a Suppoena of Allan E. Eulle-motion granted
	Decision reserved on Motion to Quash until 12/11/75. Deft. Exs. 1202- thru 1205 marked for ID. Deft. Ex. 1195 made full ex. Deft.
	Moeller resumes stan for continued direct exam. Deft. BUBAR witness
	sworn and testified. 5:03PM. Jury excused until 10:00 A.M. of 12/11/
	5:03 P.M. Court adjourned. Newman, J. m-12/11/75.
12/10 12/10	Marshal's non est return, filed: 2 Subpena to testify.
	Marshal's return showing service, filed: 2 Subpoens to testify and 3 Subpoens to produce,
12/11	Marshal's return showing service, filed: Subpoena to testily.
12/11	JURY TRIAL CONTINUES: Deft. Moeller resumes stand for continued
	1088 examination. Delt. Ex. 1206, marked for ID 4.57 D M Jury
•	J. m-12/12/75. Newman,
12/12	JUR TRIAL CONTINUES: Court Ex. 17, marked for ID, 15 jurors
	present. Delt. Moeller resumes stand for continued cross evam. 8 deft.
da anno anno anno anno anno anno anno an	Moeller witnesses sworn and testified. Deft. Ex 1207, filed. 3:21 P.M. Deft. Moeller rest, with exception of one more possible witness.
-	rest include, with exception of one more possible withess.

U.S.A. V	s. MCELLER, et als PAGE 13 CRIMINAL N-75-59
DATE	PROCEEDINGS
1975	
12/12	One deft, Bubar witness sworn and testified. Deft, Exs 1208 and 120°
	filed.* Deft. Bubar moves for mistrial, motion denied. *4:15 P.M.
·	Jury excused until 10:00 A.M. of 12/15/75. Court Ex 18, marked for II
12/15/	4:50 Court adjourned. Newman, J. 12/15/75.
12/15/	Memorandum of Law Opposing Deft's (CONNORS) Motion for a Judgment
12/15	of Acquittal, filed by govt. JURY TRIAL CONTINUES: Deft. Connors Motion for Judgment of
	Acquittal is denied at this time. 15 jurors present 10:24 A.M.
	7 Deft. CONNORS witnesses sworn and testified. 3:07 P.M. Deft. Conno
	rest except for some additional documents which will be submitted.
	2 Deft. P. BETRES witnesses sworn and testified. Deft. Exs. 1210 and
	1213, filed. Deft. Exs 1211 and 1212, marked for ID. Govt. Ex. 144 marked for ID. 5:10 P,M. Jury excused until 10:00 A.M. of 12/16/75.
	5:17 P.M. Court adjourned until 9:30 A.M. of 12/16/75. Newman, J. m-1
	16/75.
12/17	· Marshal's Returns Showing Service, filed: 16 Subpoenas to Test
	3 Subpoenas to Produce.
12/16	JURY TRIAL COUTTINED: Appearance of David M. Lesser, Esq.,
	entered for Atty. Wm. Clendenen. Motion to Quash Subpoena of Wm.
	Clendenen and Memorandum of Law in Support of Motion, filed by respond
	Clendenen. Decision Reserved until 12/17/75 at 9:30 A.M. at which time
	John Shaw is to be present. Papers to be filed by counsel under seal 12/16/75 at 12:30 p.m. 15 jurors present. Deat. P. Betres 5 witness
	sworn and testified. Deft. Ex. 1214-1219 and 1220A thru K, marked for
	Deft. Ex. 1221 thru 1228, filed. Deft. Ex. 1029, 1030 and 1214 made f
<u>.</u>	exhibi; ts. 4:03 P.M. Court adjourned to 12/17/75 at 9:30 A.M. Newman
	JURY TRIAL CONTINUES: In the absence of the jury Court hears
. 12/17	JURY TRIAL COMPINUES: In the absence of the jury Court hears
	Motion to Quash Subpoena for Wm. Clendenen, Jr. 1 P. Betres Witness sworn and testified. Counsel for deft will not call Atty Clendenen
	to stand during trial. Defr. Exs. 1229 thru 1243, marked for ID.
	12:00 P.M. Deft. P. Betres rest except for one possible witness and
	some further documents. Deft. Exs. 1244 thru 1246, marked for ID.
	5 Deft. D. Tiche witnesses sworn and testified. Deft. Exs. 1229 1230 and 1243 made full exs. In the absence of jury Deft. D. Tiche witness
<u></u>	Richard Holland takes stand for voir dire re: Connors statement. Deft. Tiche sworn and testified. 5:07 P.M. Jury excused until 10:00
· · · · · ·	A.M. of 12/18/75. Deft. Connors moves for disqualification of Atty
	Dorsey from making closing argument to the jury. denied. Deft. Coffey
	moves for reduction of bond, decision reserved, 5:21 P.M. Court adjou
	ed. Newman, J. m-12/19/75.
12/17	CJA Form 21 authorizing payment in the amount of \$291.00 to
	Gerald Gale, Court Reporter, filed. Newman, J. mopies distributed.
12/17	re: Deft. R. Betres. CJA Form 21 authorizing payment in the amount of \$40.50 to
12/11	Gerald Gale, Court Reporter, filed. Newman, J. copies distributed
	re: Deft. A. Just.
12/17	CJA Form 21 authorizing payment of \$67.50 to Gerald Gale, Court
	Reporter, filed. Newman, J. copies distributed. re: A. JUST.
12/18	JURY TRIAL CONTINUES: 15 jurors present. Deft. D. Tiche resumes
	stand for continued direct exam. Deft. Exs 1247-1253 made full exs.
	Dect. Ex. 1254, marked for ID. Govt. Ex. 145, marked for ID. 5:04 P.M. Jury excused until 14:00 A.M. of 12/19/75. Memorandum of Law in Suppose
	of Deft. Connors' Proposed Cross examination of Loretta Marley, filed
	5:07 P.M. Court adjourned. Newman, J. m-12/19/75.
	J. V. T Court adjourned, Newman, J. III-12/15/75.

1975	PROCEEDINGS
12/19	JURY TRIAL CONTINUES: 10:15 A.M. 14 jurors present, as one is ill.
	110:22 A.M. Court exquses jury until 12/29/75 at 10:00 A M Court
	Ex. 19, filed under seal, subject to inspection by a wanting Count
	Bond is reduced to \$10,000.00 personal surety. Court discusses
	Bond is reduced to \$10,000.00 personal surety. Court discusses
	the schedule of remaining witnesses with Atty. Zalowitz. Deft. Re-
	1241 made full exhibit. Deft. Exs. 1255 and 1256, marke ID.
	Court rules that exs. 1255 and 1256 are to be removed from record.
12/19	11:25 A.M. Court adjourned. Newman, J. m-12/19/75. COFFEY: Appearance Bond in the amount of \$10,000,00 personal
	surety, filed and approved. Newman, J. m-12/22/75.
12/23	MOELLER: Request to Charge, filed by defendat.
-12/23	JUST: Request to Charge, filed by defendant.
12/23	Marshal's Return showing service, filed: 8 Subpoenas to Testify and 3
12/17	CJA Form 21 authorizing payment of \$76.00 to Col. A. James Bruno,
	Fingerprint Expert, filed Newman, J. copies mailed to A.O. for payment
12/23	LJA Form 21 approving payment of \$100 50 to Coral 2 Cala Count
12/20	Reporter, filed, Newman, J. copies mailed to A.O. for payment
12/29	Request to Charge and List of Rebuttal Evidence, filed by
12/29	
-1/1/29	COFFEY: CJA Form 21 approving payment of \$33.00 to Gerald Gale, Court Reporter, filed. Newman, J. copies mailed to A.O. for payment.
12/29	JURY TRIAL CONTINUES: Jencks Act material 3685 and 3686, marked
	for ID. Deft. Exs. 1255 and 1266 marked for ID. 2:40 P.M. 14 jurors
	present. Court acvises counsie that Mr. Sullivan, one of the jurors
	11s 111 and that Mrs. Kolodnicki. Alt #2 will take his place on the jury
	Tuelle De liche resumes stand for continued cross evam Cout Fre 1/6
	1147. Illed. Delt. Exs. 1256 thru 1263 and 1265 filed Court Fr 1/9
	filed. Deft. Exs. 1211 and 1212 made full exs. 2 Deft. D Tiche witness
	sworn and testified. Deft. Ex 1264, filed. 4:27 P.M. Deft. D. Tiche rests with the exception of further documents. Deft. Coffey reads to
· ·	the jury the stipulated testimony of Albert Reaucan. 1 Deft. Coffey
	Witness Eworn and testified, 4:36 Deft Coffey roots 1 Deft Took
	witness sworn and testified. 5:05 P.M. Jury excused until 10:00 A M
	witness sworn and testified. 5:05 P.M. Jury excused until 10:00 A.M. of 12/30/75. Deft. Ex. 1267, filed. 5:20 Court adjourned. Newman, J.
12/30	I M-12/31/3.
12/30	BAR: Brief, in form of a letter dated 12/29/75, filed by deft re testimony of witness Albin E. Ulle.
12/30	
20,00	JURY TRIAL CONTINUES: Court Ex 20 marked for ID. 10:50 14 jurors
	present. 11 Deft. Just witnesses sworn and testified. Deft. Exs. 1268 to 1273, filed. Govt. Ex. 149 marked for TD. 5:00 P.M. Jury is excused
	until 10:00 A.M. of 12/31/75. 5:10 P.M. Court adjourned. Newman, J. m-12/31/75.
12/31	JURY TRIAL CONTNUES: Deft. Just witness, Carl Just resumes stand for
	Continued direct exam.) Deft. Just witnesses sworn and testified
	Dett. LAS 12/4 and 12/3, 111ed. Deft. KXS 12/6 and 12/7 filed
	4 Dett. Just witnesses sworn and testified. 12:46 P.M. Deft Tust rests
	112:40 Delle R. Delles rests. Dell. M. Tiche witness sworn and testified
•	1.2:0/ P.M. Jury excused until Mon. Jan. 5 1976 Deft P Potres
	moves to strike from the record the two telephone calls from C. Just
1976	to P. Betres-denied. 1:15 P.M. Court adjourned. Newman, J. m-12/31/75
1/5/	Supplemental List of Rebuttal Witnesses, filed by govt.
	A STATE OF ASSOCIATION OF A STATE OF ST

	N-/5-59 Criminal
DATE	PROCEEDINGS
1/5	Marshal's return showing service, filed: Subpeena tickets (2)
1/5	TIRV IRIAI CIMPINITES A / DATA DATA
	Motion to Reconsider exhibits, filed by deft. Bubar and denied. Court Ex. 21, marked for ID. Deft. Ex. 1278, filed. Request for Summation
	Ex. 21, marked for ID. Deft. Ex. 1278, filed. Request for Summation
	Time and Motion for Order Requiring full and fair opening argument
	Pardualle to Fara Utilla Fa /7. 1. Tilon hu dott Moolles hafta
	be little, M. little and P. Bettes rest at 7.45 DM Court material
	begins. 1 Govt. witness sworn and testified. 2:55 P.M. jury excused until 10:00 A.M. of 1/6/76. Court and counsel discuss time for
	summations and requests to charge. 5:17 Court in recess in this matter
	until 10:00 A.M. of 1/6/75. Newman, J. m-1/6/76.
1/5/	M. TICHE: CJA Form 21 approving payment of \$60.00 to Const.
	M. TICHE: C.IA Form 21 approving payment of \$60.00 to Gerard J. Engert, Fingerprint Consultant, filed. Newman, J. copies mailed to
	A.U. for payment.
	Court Reporter filed Neuman I comics and filed Series and filed Neuman I comics and filed Neuman
-16	
1/6	JURY TRIAL CONTINUES: In the absence of the jury Offer of Proof by counsel or Deft. Bubar as to testimony to come in with evidence as to
	tane Offer of Proof by the
	Parte Application of Connors for Subpoenas at Public Expense, submitt
	to the Court at 11:15 A.M. Ordered sealed by the Court. 12:38
	Jury enters Courtroom, 14 members present, 2 govt rebuttal witnesses
	sworn and testified. I Dett. Bubar witness sworn and testified
	Delt. Ex 12/9 marked for ID. In the absence of the jury coursel for
	delense and respective detendants are voir dired by the Court of
	Itight to take the stand on their own hehalf or call further with a
	15 DOVE A LUULLAI WILLIPSSES SWOTH AND FORFITION FORE FIRE 1ED AL
	155 filed. Govt. Ex. 156, marked for ID. Deft. Exs. 1280 and 1281, fil
	1 Govt. rebuttal witness sworn and testified. 5:16 Govt. rests.
	5:19 Jury excused until 1:30 P.M. of 1/7/76. Court and counsel discus scheduling. Court Ex. 22 marked for ID. 6:05 P. M. Court adjourned.
	Newman, J. m-1/1/76. Requests to charge filed by doft Common
1/7/	JUN IRIAL CONTINUES: Court and counsel discuss deletions for
	Little Court Rears Tille /9 morione and arcuments
	LADDREW W. ACCOUNTED AS TO CE / OF The Indictment is created as to
	dil della, Mocion for Judoment of Acquittal as to Ch 2 -6 11 - 11
	metic do to della K. Refres 18 granted Motions for Talante
C - #	inequitted as to the 1.2.3 & 1/ are denied The class Indiana
	be submitted will be four ct. Indictment. Court advises counsel of
	his charge to the jury. 1:40 P.M. Jury present (14). 1:42 Govt. open: Counsel argu certain comments in Govt. Summation, overruled. 4:05
	1 00 1 10 00 C ODELLIN ALDIMENT CONFINIDA 5.00 D M T
	I UILLI IU:UU A M OT I/X//6 IN THE SECONDO OF the Same Back of
	moves for sudgment of Acquittal. 5:25 P.M. Court adjourned unt 1 10.0
	1 A.M. Newman. J. m-1/8//6.
1/8/	JURY TRIAL CONTINUES: 10:00 A.M. In the absence of the jury Deft
	motion for mistrial-all motions are denied. AMENDED FOUR COUNT
	TO THE PARTY OF TH
-	
	The Delle Dubats summation, 4:/3 PM Court adjourne to Pri
1/9	1/9/76 at 9:30 A.M. Newman, J. m-1/9/76. JURY TRIAL CONTINUES: 2:57 A.M. 1/2
	JURY TRIAL CONTINUES: 9:57 A.M. 14 jurors present. 9:57 A.M. Def
*	Moeller's summation begins. 11:46 to 11:50 Recess. In the absence of the jury Atty. Zalowitz diputes facts of Deft. Moeller's summation.
	delier's summation.

1976	PROCEEDINGS
1/9	12:05 P.M. Deft. Moeller's summation continues to 1:20 P.M. 2:30 P?M.
	to 4:25 P.M. Deft. P. Betres summation. 4:27 P.M. Jury excuseduntil
	Mon. 1/12/76 at 10:00, A.M. 4:30 Court adjourned. Newman, J. m-1/12/7
1/8	CJA Form 21 approving payment of \$25.50 to Gerald Gale. Court
•	
1/12	Reporter, filed. Newman, J. copies mailed to A.D. for payment. CJA Form 21 approving payment of \$33.00 to Gerald Cale, Court
	Reporter, filed, Newman, J. copies mailed to A.O. for payment, re:
	M. Tiche.
1/12	Marshal's return showing service, filed: Subpoena to Produce
1710	JURY TRIAL CONTINUES: 11.10 14 jurors present. 11:10 to 11:59 A.M. Deft. D. Tiche's Summation. 12:00 to 1:30 P.M. Lunc 1:40 to
1/12	JURY TRIAL CONTINUES: 11:10 14 jurors present. 11:10 to 11:59
	2:10 M. Deft. A. Coffey's Summation. 2:35 P.M. to 3:40 P.M. Deft.
	A. Just's summation. 3:40 P.M. Jury excused until 1/13/76 at 10:00
	A.M. 3:50 P.M. Court adjourned until 1/13/76 at 10:00 A.M. Newman,
	J. m-1/13/76.
1/13	JURY TRIAL CONTINUES: 14 Jurors present. 10:30 A.H. to 10:50 A.M. Submation by
	deft. R. Betres. 10:50 A.M. to 11:26 A.M. Summation by deft. M. Tiche. 1:45 P.M. to
	3:22 P.M. Government's rebuttal. 3:25 P.M. In the absence of jury counsel argue
	rebuttal comments. All defts. join in Motion for Judgment of Acquittal & Mistrial. Motions denied. 3:40 P.M. Jury returns to courtroom and Court instructs them on
	rebuttal comments. 3:45 P.M. Jury excused to 1/14/76. Court instructs counsel to
-	retew all full exhibits with the Clerk after court adjourns. 4:00 P.M. Court
	adjourged to 1/14/76 at 10:00 A.M. Newman, J. m-1/14/76.
1/14	arshal's Return showing service, filed: 1 Subpoena to Testify; 1 Subpoena to Pro
1/14	JURY TRIAL CONTINUED: Pages 1 and 4 of Amended Complaint were corrected and
	substituted copies were filed. 10:10 A.M. 14 jurors present. Court excused two
	alternates. 10:21 A.M. to 12:55 P.M. Court charges jury. Govt. and defts. take
	exception to Charge. No further charge to be given. 1:20 P.M. All full exhibits
	and Indictment and verdict form delivered to jury by Marshal and deliberations begin.
	2:45 P.M. Notes delivered to the Court ffom jury. Court and counsel agree that transcripts of Guard's testimony be given to jury. Court will allow jury to return
	verdicts as they come. 3:35 P.M. Jury continues deliberating. Court Ex. 23 thru 27,
-	marked for Ident. 3:45 P.M. Two notes delivered to the Court from jury. 3:50 P.M.
	Jury returns to courtroom and verdict as to DEFENDANT DONALD CONNORS read, as tollows:
	Not Guilty on Counts 1, 2, 3 and 4. Court accests verdict. 3:56 P.M. Jury excused
	until 1/15/76 at 10:00 A.M. Deft. Connors is discharged from bond and custody in
	this case. Deft. Connors moves to have grand jury testimony sealed. Counsel agree
	not to show what they have to any one else, but will return same to the Court when this case concludes. Court Ex. 28 and 29, marked for Ident. 4:02 P.M. Court
	adjourned to 1/15/76 at 10:00 A.M. Newman, J. m-1/15/76.
1/15	
	by Att. Golub. Newman, J. Copies distributed.
-1/15	JURY TRIAL CONTINUES: 12 jurorspresent and at 10:00 A.M. continue deliberations.
	12:25 P.M. Jury enters courtroom and portions of testimony of witness Windish read by
	reporter. Transcript of balance of testimony will be handed jury. 1:00 P.M. Jury
1	returns to continue deliberating. Court Ex. #30, marked for Ident. 4:50 P.M. Jury
-	excused until 1/16/76 at 10:00 A.M. Court adjourned. Newman, J. m-1/16/76
1/15	Certified copy of Order from U. S. Court of Appeals granting Government's
	motion to dismiss the appeal as to Moeller, Buhar, D. Tiche, M. Tiche, Just, R. Betres, A. Coffey, J. Shaw, the eight appelless we stipulated to the dismissal. m-1/15/76. Two certified copies handed to U. S. Marshal.
1/15	Court Reporter's Notes of proceedings held before Newman, J. at
	New Haven on October 3, 1975 filed. Gale, R.
	New naven on October 3, 1979 trees, Ogic, in

DATE	Ph. Col. No. A. El N. C. a.
1976	The state of the s
1/16	JURY TRIAL CONTINUES: 10:00 A.M. 12 jurors report and continue deliberations. 11:10 A.M. Note from Jury. 11:25 A.M. Jury teturns to
•	Courtroom and Court asks jury to be more specific re discussion of the
	Courtroom and Court asks jury to be more specific re discussion of the law in the Courts charge. Testimony of Shaw will be pursued further
	by Court and counsle. 12:05 P.M. Jury returns to continue deliberation
	Sixteen volumes of Court Reporter; S Transcript of Shaw's testimony, fill Court Ex. 31 a. marked for ID. 2:25 P.M. Jury returns to Courtroom
	and Court complies with their note to read portion of charge re:
	laiding and abetting and Councs 3 & 4. 2:45 P.M. Jury retires to contin
	deliberation. 4:00 P.M. Jury excused until 1/19/76 at 10:00 A.M.
1/19	4:15 P.M. Court adjourned. Newman, J. m-1/19/76. CONNORS: Judgment of Acquittal, filed and entered. copies mailed t
1/17	coursel of record. m-1/20/76.
1/19	JURY TRIAL CONTINUES: 12 jurors report at 10:00 A.M. and return to
	jury room to continue deliberations. Court opens at 10:25 A.M. Court asks counsle to submit in writing their requests as to porcion of
	Shaw's testimony they want read to jury. 12:15 Court rules on requests
	of Shaw's testimony. 12:20 Jury enters Courtomm and portions of Shaw
	Testimony read. 3:00 P.M. Jury retires to juryroom to continue deliber-
	ations. Court Exs. 34 and 35 marked. 5:10 P.M. Jury returns with following 2 verdicts. Deft. D. Bubars Guilty to all four counts.
	Deft. D. Tiche, guilty to all four courts. Jury polled at request of
	counsel and all answer in the affirmative. 5:16 P.M. Jury excused to
	1/20/76 at 10:00 A.M. Deft. D. Tiche moves to continue in same bond.
-	Deft. D. Bubar move to continue bond in the same amount. Govt. moves to have deft. Bubar surrender passport. Deft. D. Tiche bond increased
	Ito \$100 000 w/corporate surety. Deft. Bubar-Court Will not admit
	him to bond pursuan to section 3148. Present bond i revoked and deft.
	is remanded to custody of U.S. Marshal. 5:40 Court adjourned. Newman,
- /10	J. m-1/20/76. Marshal's return showing service, filed: Subpoena ticket.
$\frac{1/19}{1/20}$	JURY TRIAL CONTINUES: 10:00 A.M. 12 jurors report to jury room
1/20	and continue deliberations, 2:10 P.M. Note from jury, 2:15 P.M. Jury
	returns to Courtoom and request to hear Marie Fobes testimony, is gran
	and read at this time. 2:25 P.M. Jury retires to Juryroom to continue
	Atty. appears and request that Courte remove said deft. from Whalley
	Ave. jail to Bridgeport C.C., U.S. Marshal indicates to Court that the
	move deft. Bubar to Bpt. C.C., 2:30 Recess. Court Exs. 37-39 marked
	for ID. 4.05 PM Jury returns to Courtroom. 4:07 P.M. Jury excused
	until 10:00 A.M. of 1/21/7(Atty. Zalowitz requests from the Court the reason for which no bond was set for Deft. Bubar. Court adivises
	it will be filed and be made available to Counsel. 4:15 P.M. This
	case in recess until 10:00 A.M. of 1/21/76. Newman, J. m-1/21/76.
1/21	HIRY TRIAL CONTINIES: 10:00 A.M. 11 jurors report to Jury room.
	10:55 A.M. Court advises counsel that one of the jurors is ill and that the remaining jurors will be allowed to go home. Court request of
	counsel that they be available to be in Court on five minutes notice
	in this proceeding Court Ex. 40 marked for ID. 11:04 Jury enters
	Courtroom, 11 members present, 11:07 A.M. Jury excused until 10:00 A.
	of 1/22/76/ 11:09 A.M. Court adjourned in this matter until 10:00
1/22	A.M. of 1/22/76. Newman, J. m-1/21/76 Marshal's return showing service, tiled: two subpoenas to testify.
1/22	Marshal's return showing service,

P1976	PROCEEDINGS
downwarmen Acres and Acres	JURY TRIAL CONTINUES: 10:00 A.M. Jury tr continues 12 jurges report to Jury room to continue deliberat s. 10:43 Note from Jury. 10:50 A.M. Jury enters Courtroom. Court answers jury's question posed in the note with instruction regarding Ct. 2 and various element of the count. Court Ex. 41 marked for ID. 7:30 P.M. Note from jury.
	4:34 P.M. Jury returns with verdict as to deft. Charles D. Moeller-not guilty to Cts. 1,2,3 &4. verdict is verified and ordered recorded. 4:36 P.M. Jury excused until 10:00 A.M. of 1/23/76. Court rules that Peft. Moeller is discharged from bond and all further custody in this case. 4:37 P.M. Court adjourned in this matter until 10:00 A.M. of 1/23/76. Newman, J. m-1/23/76.
1/23	JURY TRIAL CONTINUES: 10:00 A.M. 12 jurors report to jury room and continue deliberations. 2:20 P.M. Note from jury. 2:35 P.M. Jury retu to Courtroom. Court grants request of note as to further instruction as to Cts. 3 & 4 and aiding and abetting. Instruction given to jurors
	2:55 P.M. Jury excused to jury room to continue deliberations. 4:00 P.M. Note from jury. 4:10 P.M. Jury returns to Courtoom, note request to leave early as one of the jurors is not feeling well. 4:12 P.M. jury excused until 10:00 A.M. of 1/26/76. Court Exs. 42 and 43 marked for ID. 4:13 P.M. Court adjourned in this matter until 10:00 A.M.
	BUBAR: Motion to Reconsider, filed by deft. and endorsed as follows "Motion for Reconsideration, denied. Motion for hearing on Motion for Reconsideration, denied, no adequate grounds having been set forth to require a further hearing." Newman, J. m-1/26/76. copy handed to
1/23	Atty. Zalowitz and copy sent to Atty. Dorsey. BUBAR: Ruling on Application for Bail Pending Appeal, filed and entered under seal, Newman, J. copies handed to Atty. Dorsey and
1/23	JUST: CJA Form 21 approving payment of \$43.00 to Gerald Gale, Courseporter, filed. Newman, J. copies distributed.
1/26	or for a New Trial, filed by defindant.
1/26	BUBAR: CJA Form 21 approving transcripts of the trial, filed. Newman, J. copies distributed.
1/26	JURY TRIAL CONTINUES: 10:00 A.M. 12 jurors report to jury room to continue deliberations. 12:30 P.M. Note from jury. 12:39 P.M. Jury returns to Courtroom. Court gives further instruction as to aiding and abetting. 12:45 P.M. Jury returns to jury room. Court Ex. 44, marked for ID. All defense counsel take exception to instruction.
	3:53 P.M. Note from jury. Jury returns to Courtroom. Court advises jury of its rulling regarding their request. Court requests that the pose a specific question regarding the law in Counts 3 & 4. 4:19 P.M jury returns to jury room. Court Ex. 45 marked for ID. 4:50 P.M. No from jury. Jury returns to Courtroom and Court answers question. Court Ex. 46 marked for ID. 5:08 P.M. Note from jury requesting to go home 5:09 P.M. Court excuses jury until 10:00 A.M. of 1/27/76. Court Ex.
1/27	47 marked for ID. 5:10 P.M. Court adjourned. Newman, J. m-1/27/75. MOELLER: Judgment of Acquittal, filed and entered. Newman, J.
1/27	m- 127/76 copies mailed to Attys Dorsey and Koskoff. Request for Extension of Time in Which to File Motions for Acquit
	or For a New Trial endorsed: "Motion granted." Newman, J. copies maile Atty Dorsey and Curtis. re: D. TICHE.
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DATE 1976	PROCEEDINGS
1/27	JURY TRIAL CONTINUES: 10:00 A.M. 12 jurers report to jury room to
71	continue deliberations. 10:35 A.M. Note from jury regarding elements
•	of Count Four. Jury returns to Courtroom and Court reads further
	of Count Four. Jury returns to Courtroom and Court reads further instruction to jury on Count Four. Court Ex. 48 marked. Jury retires
	Jury returns to Courtroom and Court answers question posed on Count
The state of the	Four. Court ex. 49 marked for ID. Jury retires for further deliberation
	5:12 P.M. Note from jury to be excused for the day, 5:15 P.M. Jury is
	excused until 10:00 A.M. of 1/28/76. Court Ex. 50 marked for ID
	Court puts on the record that at 4:00 P.M. a note from the jury was
	received requesting to go home. The note was discussed with counsel in chambers after which time the Court sent back note rejecting their
	request. Newman, J. m-1/28,76.
1/27	BUBAR: Notice of Appeal, filed by deft, Certified copy of Notice of Appeal and docket entries sent to U.S.C.A. Copy of Notice
	of Appeal sent to counsel of record.
1/28	JURY THAL CONTINUES: 10:26 A.M. Court advises counsel that juor)Mr. Macensky) 1
	111 and that 11 jurors who reported in will be excused until 1/29/76 at 10:00 A.M. 10:32 A.M. Court adjourned in this matter. Newman, J. m-1/28/76.
1/29	Court Reporter's Transcript of Proceedings held on September 29, 1975 (Suppression
1/00	hearing), filed. (Gale, R.)
1/29	R. BETRES: Defendant's Supplemental Memorandum in Support of
1/28	Defendant Anthony A. Just's Motion to Dismiss Count Eight 12d. D. TICHE: CJA Form 21 authorizing transcript of Rebu tal Summati
1/29	of U. S. Atty., filed. Newman, J. mopies distributed. JURY TRIAL CONTINUES: 10:00 A.M. 12 jurors report to continue
	deliberations. 12:34 note from jury, advises they have reached verdi
	Court will allow jury to report verdicts and then deliver a modified
	P. Betres: GUILTY CTS L & 2. Deft. R. Betres: GUILTY CTS 1 & 2.
	Dett. A. Just: GUILTY CTS 1 & 2. Deft. A. Coffey: GUILTY CTS 1 & 2.
	Verdicts are verified and ordered recorded. 12:53 jury excused.
	Deft. M. Tiche moves for mistrial on all cts. denied. All defts move for mistrial as to Cts 3 & 4-denied. Court Ex. 51, marked for ID. 2:40 P.M. Court delivers Allen charge. 2:45 P.M. jury excused to jury
	room. 5:04 P.M. Note from jury to go home. Deft's P. Retres R Retr
	and A. Colley move for mistrial-denied. Deft. P. Retres moves for wa
	dire of jury on 1/30//6 re:publicity. 5:13 P.M. Jury excused until
	10:00 A.M. of 1/30/76. Court Exs. 52 and 53, marked for ID 5:14 Court adjourned. Newman, J. m-1/30/76
1/30	JURY TRIAL CONTINUES: 10:00 A.M. 12 jurges report and continue
	deliberation. 10:28 A.M. Court requests of coursel whether they want
	a voir dire of jury re: publicity. Court Ex. 54, marked for ID. Court Ex. 55, marked for ID. 10:45 jury enters Courtroom, Court voir dires panel re: publicity. Court andwers question posed in note.
	Court Ex. 55, marked for ID. 10:45 jury enters Courtroom, Court voir
	Court Ex. 30, marked for 10. 3:24 P.M. Note from jury recarding
	adjournment for the day. 3:40 P.M. Jury excused until lococ A M
	lot 2/2/16. Court Ex. 57, marked for ID. All deft, move for mistrial-
1/20	denied. 3:45 P. M. Court adjourned in this matter. Newman, J. m-1/30
1/29	BUBAR: Motion to Dismiss (appeal), filed by Govt (copy)
1/30	CJA Form 21 approving payment of \$150.00 to Elizabeth McCarthy.
	Document Analyst, filed, Newman, J.

1978ATE	PROCEEDINGS
.2/2	Court Reporter's Notes of Proceedings held on 9/30/75, filed
	Gale, R. (Motions to Suppress)
2/2	Court Reporter's Transcript of Proceedings held on 9/30/75, filed.
- 0/0	Court Reporter's Transgrant of Proceedings hold on 9/20/75, filed.
2/2	Gale, R. (Motion to Supplies).
2/3	TURY TRIAL CONTINUES: 10:00 A.M. 12 jurors report to tury room
	10.30 A M. Court request to hear i counsel
	I make the make dive inversage regarding further deliberation
)	Deft. P. Betres moves for mistrial-denied. Counsel for defense request individual voir dire of Mr. Pond regarding his health condition.
	Tio to a with the brought to Courtroom and asked whether builties
	Taliborations would be beinful re: two deadlocked U.S. Foreman replies
	10.58 P.M. Court excuses jury to continue deliber
	1.26 D M Note from jury advising they have reached verdicts.
	4:35 P.M. Jury returns the following verdicts: Peter Betres: COUNT 3-GUILTY, COUNT 4-GUILTY. Ronald Betres: COUNT 4-NOT GUILTY. Verdicts
	Twent fied and ordered recorded. Deft. P. Betres request poll of jury
	Tall arrows affirmatively 4.39 P.M. jury excused until 10:00 A.M.
	Tof 211.176 Deft's move for the bond to remain the same. Court rules
	the bond of R. Betres to remain the same P. Betres: Bond is increased to \$100000. with corporate surety. Deft. P. Betres moves to stay the
	execution of the bond-granted execution stayed until Mon. 2/9/76 at
	110.00 A M 4.55 P.M. Court adjourned in this matter. Newman, J.
	1 -2 1/4 176 * Bond to \$25 000 00 with 10% surety re R. Betres. (\$2,500 in Registry
-2/4	T TIPLY METAL CONTINUES: 10.4 M 12 livers report to the lury room to
	continue deliberations. 2:45 P.M. Court advises counsel of note recei
	from jury this morning re: having testimony of Agent Gilliam read to them. Court Ex. 59, marked for ID. 2:50 P.M. Jury returns to the
	Courtroom. Court request of jury which documents they want the testimon
	1 of Acoust Cilliam 5.10 PM Jury excused until 10:00 A.M. 2/3//0.
•	Deft. move for a mistrial and request a check of Mr. Ponds health denied. Court Ex. 60, marked for I.D. 5:15 P.M. Court adjourned.
-375	Court Reporter's Notes of Proceedings held on Oct. 1, 1975, filed.
2/5	(Suppression Hearing). Gale, R.
2/5	THE TENT CONTINUES. 10.00 A M 11 jurges report to jury rocm
	as juror, Mr. Pond reported he was ill. 11:40 A.M. Court advises counsel of the present condition of Mr. Pond, who is presently
	Twaiting in chambers. Court requests to hear counsel concerning their
-	previous request of individual voir dire of Mr. Pond. Detts move
	The a mistrial Court will defer ruling until inquiry is made of Mr.
	Pond. Counsel for defense orally submit duestion to court to be asked
• 2	1 12.07 p w Court and councel and detts, proceed to champers to volt
	Till - V- D 1 19.67 D M SUPE ANTOPE COULT TOOM. COULT GUVISES 144V4
	The withdraw from their consideration (fs.) (4 as to nells. Just all
	Coffey. The case of M. Tiche will remain for their consideration. 12:52 jury retires to jury room. Deft. Tiche renews motion for mistria
	There of Doff c Coffey and list move that the lury be polited in it.
1	Total 1 6 2 most D Tiche moves for a reduction of bond-denied
*	I hand fam dofte Tunt and Vottou increased to blu. VVV. With builty
12	execution is stayed until 5:00 P.M. of 2/5/76. 2:07 P. M. note from juror, Mr. Pond. Court advises it will excuse jury until Mon, 2/9/76
1	at 10:00 A.M. Deft. M. Tiche moves for mistrial-denied.
1	at 10.00 A.M. Dett. II. IItale moves

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U.S.A. V	s. M. TICHE PAGE 17 CRIMINAL N-75-59
1976	PROCEEDINGS
.2/5	2:49 Jury enters Courtroom. Court polls jury in the cases of
	R. Betres, A. Coffey and A. Just all answer affirmatively. 2:53 P.M. jury excused until Monday, 2/9/76 at 10:00 A.M. Deft's Coffey and
	Just's motions for mistrial as to Cts. 3 &4 granted. Court Ex. 61.
	marked for ID. 2:54 P.M. Court adjourned in this matter until 10:00 A.M of 2/9/76. Newman, J. 2/6/76
2/5	P. BETRES: Motion for Judgment of Acquittal Notwithstanding
075	the Verdict and in the Alternative for a New Trial, filed by deft.
2/5	P/BETRES: Notice of Appeal (from Order Setting Bond), filed by deft. copy of notice of appeal sent to counsel of record. Cert.
	deft. copy of notice of appeal sent to counsel of record. Cert. copy of Notice of Appeal and docket entries mailed to Court of Appeals.
2/6	Court Repor's Transcript of Proceedings held on Oct. 1, 1976
	filed. Gale, R. Suppression hearing).
2/5	CJA Form 21 approving the amount of \$81.00 payable to Gerald Gale,
	Court Reporter, filed. Newman, J. copies mailed to A.O. for payment. Motion for Reduction of Bond, filed by deft. P. Betres.
2/9	JUST: Defendant Just's Motion to Limit the Government's Argument
_2/3	and Defendant Just's Supplemental Request for a Jury Charge, filed by
	deft.
11 11	CONNORS: Memorandum in Opposition to Defendant Connor's Proposed
	further examination of Loretta Marley, filed by govt.
2/9	JURY TRIAL CONTINUES: 10:00 A.M. 12 jurors report to jury room.
	Mr. Kwolek is ill and requests to go home. Court allows him to leave. 10:30 A.M. Deft. P. Betres moves for a reduction of bond pending
	appeal from \$100,000, with corporate surety to a bond of \$75,000.
	appeal from \$100,000, with corporate surety to a bond of \$75,000. with 10% deposit. absent objection by govt., the motion is granted.
	Deft. M. Tiche moves for a mistrial-motion denied. Court advises
	counsel that is has a note from jury to be taken up when all jurors
<u> </u>	present. 10:54 Jury excused until 10:00 A.M. of 2/10/76. 10:54 Court adjourned in this matter.
2/9	Court Reporter's Notes of Proceedings held on Oct. 2, 1975,
	filed. Gale. R. (Motion to Suppress).
2/10	Court Reporter's Transcript of Proceedings held on Oct. 2nd add
	3rd, 1975, filed. Gale, R. (2 folders)
_2/9	P. BETRES: Appearance Bond in the amount of \$75,000.00 with 10% deposit, and provision to travel to Pennsylvania, filed by deft.
2/10	JURY TRIAL CONTINUES: 10:00 12 jurors report to the jury room
-2/10	to continue deliberations. 11:00 A.M. Court takes up note given to
	Court on Thurs. regarding testimony of J. Shaw and Ciccarelli of Yellow
	Cab. Deft. M. Tiche renews motion for mistrial-deni d. Deft, Tiche moves for Individual voir dire of Mr. Kwoledk re: his medical status.
	11:26 A.M. Court voir dires Mr. Kwolek regarding his health. Court
	advise it is going to let him go home and to have him contact the Clerk office in the Λ.M 11:31 A.M. The remaining jurors return to the
	Courtroom and are excused until 10:00 A.M. of 2/11/76. Motion for
	mistrial is renewed motion denied. 11:40 P.M. Court adjourned in
	this matter. Newman, J. m-2/11/76.
2/11	JURY TRIAL CONTINUES: 12 jurors report to the jury room to continu
	deliberations. 10:47 A.M. Court advised counsel that all twelve member of the jury are present and that it will have the Court reporter read
<u>-</u>	the requested testimony. Deft. Tiche moves for mistrial-denied. Deft.
	Tiche moves for a voir dire of Mr. Kwolek as to health. 10:51 A.M. Court voir dires Mr. Kwolek as to his health. 10:54 A.M. the remainin
	jurors are present. Court takes up note regarding testimony. over
	Julioto are present. Court takes up note regarding testimony. Over

1976	PROCEEDINGS
12/11	10:55 to 11:04 A.M. Court reporter reads testimony of Shaw and
	Ciccarelli of Yellow cab. 11:04 A.M. Jury retires to jury room. Court
	Ex. 62, marked for ID. Motion for mistrial is renewed-denied. 2:10 P.M.
	Note from the jury indicating they are deadlocked as to deft. M. Tiche.
	Deft. M. Tiche moves for mistrial Govt objects and request Court to give medified "Allen" charge. Deft. M. Tiche's Motion for Mistrial
	is granted for the reasons stated in open Court. Court briggs to the
	Govt's attention the requirement of the Speedy Trial Act if a new trial
	is to beheld. Govt responds that they are prepared to go forward in
	60 days. 2:25 P.M. jurypanel enters Courtroom and Court informs them
•	that the case no before them is no longer for their consideration. 2:35 P.M. Jury panel is excused permanently with the thanks of the
	Court. Court will certify additional fees for the panel. Court.
	Ex. 63, marked for ID. 2:36 P.M. this case is adjourned. Newman, J.
	m-2/1 2/ 76
2/11	CJA Borm 21 approving payment in the amount of \$150.00 to
	Paul Bakulski, Investigator, filed. Newman, J. copies mailed to A. O. for payment.
2/13	COFFEY: Motion for Judgment of Acquittal, filed by deft.
	JUST: Motion for A Judgment of Acquittal or, In the Alternative,
	A New Trial, filed by deft.
11 11	R. BETRES: Mottion for Judgment of Acquittal Notwithstanding the
	Verdict and in the Alternative for a New Trial, filed by deft.
2/17	Court Reporter's Notes of A reedings held on 10/6/75 (Trial), filed. (Gale, P.) Court Reporter's Transcript Proceedings held on 10/6/75 (Trial), filed. (Gale,
. 2/19	MICHAEL TICHE: Motion to Withdraw as Counsel, filed by Atty. Thomas Cli ford.
2/18	Memora. Jun In Support of Motion for Acquittal or for A New Trial
-2/19	filed by dere. D. Tich .
4/19	P. BETRES: Copy of Stipulation for Withdrawal of Appeal, filed by
2/19	Court Reporter's Notes of Proceedings held on Oct. 7, 17, 20
	and 22, 1975, filed, Gale, R. (four packages).
2/20	CJA Form 20 appointing Alan Neigher, Esq., to represent deft. R. BETRES, filed. Newman, J. copies distributed.
2/23	Copy of Order from the U.S.C.A. granting Motion of January 22, 1976,
,	to dismiss the Appeal from the U.S.D.C. for the District of Conn
	filed. Fusaro, C. m-2/23/76
2/23	JUST: Order for Return f bond, filed and entered. Newman, J.
2/25	m-2/23/76. Check 359 issued and handed to Public Defender Craig. Court Reporter's Notes of Proceedings (Trial) held on Oct. 29,
_4/45	1075, filed, Gale, R.
2/25	Court Reporter's Notes of Proceddings (Trial) held on Oct. 31,
	1975, filed. Gale, R.
2/27	Court Reporter's Notes of Proceedings held on Oct. 8, and Nov 3,
2/27	1975, filed. Gale, R. (2 packages) Court Reporter's Notes of Proceedings held on Nov. 5, 1975 and
	Nov. 7, 1975, filed. Gale. R.
3/1 *	CJA Form 20 executed and approved. Newman, J. copies mailed to
• 3/2	A. O. for payment (FOBES) Notice of Motion, Motion for New Trial of the Quashing of the
- 3/2	Indictment, filed by deft, (RUBAR).
-3/1	JUST: CJA Form 21 authorizing and approving payment of \$2,088 to
	Gerald Gale, Court Reporter, filed. Newman, J. copies distributed.
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1976 3/4 Court Reporter's Notes of Proceedings (trial) held on October 8, 1975 and Nov. 10, 1975, filed. Cale, R. 3/4/ CJA Form 71 approving payment of partial claim of \$255.25 to Gerald Cale, Court Reporter, filed. Newman, J. 3/4/ Order, filed and entered. It is hereby ordered that the retrial of Michael Tiche on all counts of the retyped four-count indictment and retrial of Albert Coffey and Anthony Just on Counts 3 and 4 of the retyped indictment is assigned to Judge Robert C. Zampano, provided, however, that Judge Newman shall retain inrisdiction of the cases of Tiche, Coffey and Just prior to actual retrial for all purposes except ruling on such pre-trial motions as Judge Newman, in his discretion, deems so related to the conduct of the retrials as to be more approvided. Judge Newman, Judge Zampano, Clarie, J. m-3/9/76. copies sent to Judge Newman, Judge Zampano, Attys Dorsey, Clifford, Bowman and Craig. 3/10 Court Reporter's Notes of Proceedings (Trial) held on Oct. 14, 1975 and Nov. 12, 1975, filed, Russell & Gale, R. (two packages) 3/11 Order, filed and entered. All motions in connection with the retrial of deft. Michael Tiche, on Cts 1 through 4 and defts. Anthony 26, 1976. copies sent to Atty. Dorsey, Craig, Bowman, Thomas D. 3/12 Court Reporter's Notes of Proceedings (motions) held on Oct. 15, 1975, filed, Gale, R. 3/15 Court Reporter's Notes of Proceedings (trial) held on Nov. 17, 1976, filed, Gale, R. 3/15 M. TICHE. Notice of Readinger, filed in Nov. 17, 1976, filed, Gale, R.		vs. MOELLER, et als PAGE 18 N-75-59 Criminal			
8. 1975 and Nov. 10. 1975 filled. Cale and Cale of Section of Sect		PROCEEDINGS			
8. 1975 and Nov. 10. 1975 filled. Cale and Cale of Section of Sect	. 3/4	Court Reportor's Notes of the			
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3/15 Court Reporter's Notes of Proceedings (trial) held on Nov. 17, 3/15 M. TICHE: Norice of Readiness, filed by govt. 3/19 Court Reporter's Notes of Proceedings (trial) held on Nov. 13, 137 filed. Gale, R. 3/19 M. TICHE: Application for Notice of Alibi, filed by govt. 11 M. TICHE: Application for Notice of Alibi, filed by govt. 12 DISPOSITION A STARTER UP LL F DICE POTIONS: dearing held on pending Notions. Court hears oral argument or Notions. Court was feeld under seal by Creier of the Court. Fortions for Judgment of Deft, b. Tiche's motion which will remain needing until the Court has an opportunity to review the added material to be submitted. Court advises it will file a written memorancum regarding those motions. Court hears counsel on scatcacing. DISPOSITIONS: ATRES: Impr. Syrs on Count 1, Impr. 5 yrs on Ct. 7. To Fun consurrent with each other and consecutive to Ct. 1 for a total sentence of 15 yrs. Court advises deft of right to Appeal. Same bond to continue pending appeal. DISPOSITION: R. DETRES: Impr. 5 yrs on Ct. 1. Deft. advised of right to appeal. Same bond to continue pending appeal. LIMPR. 5 yrs on Ct. 1 and Impr. 5 yrs on Ct. 1. Deft. advised of right to appeal. Same bond to continue pending appeal. DISPOSITION: R. DETRES: Impr. 5 yrs on Ct. 1. Deft. advised of right to appeal. Same bond in continue pending appeal. Same bond for continue pending appeal. DISPOSITION: A. COPFEY the sentence in Ct. 1. Deft. advised of right to appeal. Same bond for continue pending appeal. Dispositive with sentence in Ct. 1. Impr. 5 yrs on Ct. 1 and Impr. 5 yrs on Ct. 1 an	3/12	Court Reporter's Notes of Proceedings (
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to continue pending appeal. DISPOSITION: A. JUST: Impr. 5 yrs on Ct. and Impr. 5 yrs on Ct. 2. to run consecutive with sentence imposed on Ct. 1. Deft. advised of right to appeal. Same bond to continue pend- ing appeal. DISPOSITION: D. LIMAR: Impr. 5 yrs on Ct. 1 and Impr. 5 y on Ct. 2 to run consecutive with sentence imposed on Ct 1. Impr. 10 yr on each of Cts 3 and 4. to run concurrent with each other and consecutive to the sentences imposed on Ct 1. Impr. 10 yr ely to the sentences imposed on Cts 1 and 2. Total sentence of 20 year Court Ex. 65, marked for ID. over		Impr. 5 yrs on Ct. 1 and Impr. 5 yrs on Ct. 2. to run consecutive to			
and Impr. 5 wrs on Ct. 2. to run consecutive with sentence imposed on Ct. 1. Deft. advised of right to appeal. Same bond to continue pending appeal. DISPOSITION: D. LIMAR: Impr. 5 yrs on Ct. 1 and Impr. 10 yrs on each of Cts 3 and 4. to run concurrent with each other and consecutive with sentence imposed on Ct 1. Impr. 10 yrs on each of Cts 3 and 4. to run concurrent with each other and consecutive with sentence of 20 years. Deft. advised of right to appeal. Same bond to continue pending appear Court Ex. 65, marked for ID. over					
ing appeal. DISPOSITION: D. LIMAR: Impr. 5 yrs on Ct. 1 and Impr. 5 y on Ct. 2 to run consecutive with sentence imposed on Ct 1. Impr. 16 y on each of Cts 3 and 4. to run concurrent with each other and consecutive to the sentences imposed on Cts 1 and 2. Total sentence of 20 year Deft. advised of right to appeal. Same bond to continue pending appearance of Ex. 65, marked for ID. over		and Impr. 5 was on Ct. 2 to miston: A. Hist: Impr. 5 was on Ct.			
on Ct. 2 to run consecutive with sentence imposed on Ct 1. Impr. 10 von each of Cts 3 and 4. to run concurrent with each other and consecutive to the sentences imposed on Cts 1 and 2. Total sentence of 20 years Deft. advised of right to appeal. Same bond to continue pending appearance of 20, marked for ID. over		Ct. 1. Dost advised of ministrative with sentence imposed un			
ely to the sentences imposed on Cts I and 2. Total sentence of 20 year Deft. advised of right to appeal. Same bond to continue pending appearance of 20, marked for ID. over					
Deft. advised of right to appeal. Same bond to continue pending appearance of an appearance of the continue pending appea		on Ct. 2 to run consecutive with sentence imposed on Ct. 1 and Impr. 5 v			
Deft. advised of right to appeal. Same bond to continue pending appearance of 20 years of Ex. 65, marked for ID. over					
Court Ex. 65, marked for ID. over		to the ball the state of the st			
Source Ba, W., marked for In. over		The continue and a co			
D. C. 109 Criminal Continuation Sheet		court Ex. 65, marked for ID. over			
	D. C. 109 Crimi	nal Continuation Sheet			

1976	PROCEEDINGS	
_3/22	DIPOSITION: ". TICE: Impr. vrs on Ct 1, and Impr. 5 are on Ct. 2	
•	to run consecutive to sentence imposed on Ct. 1. Tapr 10 are on	
	each of Cts 3 and 6 to run concurrent with each other and consecutive	
	to the sentence imposed on Ct 1. Total pentence of It yrs. hert	
	Advised of right to appeal. Same bond to continue pending appeal	
	Hearing continues: Deft. Puber's Motion to unseal two lists of	
	witnesses is granted and unsealed documents to be given nert Court	
	exhibit nor. Doft. Buhar's motion to set reasonable bond pending	
_	appeal is denied. Deft. D. Tiche's Motion to be resentence under	
	1008(a)(2) is denied. Deft. D. Tiches motion that Court recommend incarceration to Lewisburg, Pa. is denied. Court will not object	
	if Bureau of Prisons sends deft, to that institution. Coffey's	
	Motion to reduce bond of \$50,000 to \$20,000 ute: 107 and 100	
	Motion to reduce bond of \$50,000 to \$20,000 with 10% surely. Motion granted to extent of \$25,000 with 10% cash deposit. Dert Just's	
	Motion to reduce \$50,000 bond to \$20,000 with 10% surety is granted to	
	1 extent of 575 con with 10% cach curety treft to minter	
	Lo reduce 5/3,000, bond to that of Dofte Coffee and Treat to total	
	I bome botte to contitue. The thorn some to	
	denied. Dert. Rubar's Hotion to unscal that portion of transcript	
	Concerning Witnesses to be subpossed at gout expense is assetat	
1 Dett. K. Betres requests that he he continued and an 1000/-		
•	denied. Deft Bubar's request for transcript of Govt. expense of today's proceeding dealing with bail on appeal is granted. 3:15	
	P. M. this proceeding to adjourned to appeal 18 granted, 3:15	
3/22	P. M. this proceeding is adjourned. Neuman, J.m3/22/76 and m-3/23/76 Notice of Appeal, filed by deft. JUST.	
3/22	COFFEY: Notice of Appeal, filed.	
3/22	R. PETRES: Notice of Appeal, filed by deft.	
3/23	D. TICE: Notice of Appeal, filed by deft.	
11 11	A. Just: Notice of Appeal, filed by deft.	
11 11	A. CCFFEY: Notice of Appeal, filed by deft.	
11 11	BUBAR: Notice of Appeal, filed by doft.	
11	P. RETRES: Notice of Appeal, filed by deft. Certified copies of	
3/24	Application for Appointment of several file is C.A. on 3/26/76	
3/23	Application for Appointment of counsel, filed by deft. P. RETRES. Court Reporter's Notes of Proceedings (trial) held on Oct. 16, and	
	V1. 1979. 11100. Russell. R.	
3/24	Court Reporter's Notes of Proceedings (tytal) held on Oct. 23 and	
2/00/	EG. 1970. LLIGA. KUSSELL. R.	
3/22/	COFFEY: CJA Form 21 approving transcript of trial, filed Newman, J.	
3/22	copies distributed.	
	D. TICHE: CJA Form 21 approving transcript of trial and all proceed filed. Neuman, J. copies distributed.	
3/23/	D. TICHE: CJA Form 21 approving payment of \$31.00 to Gerald Gale,	
•	Court Reporter, filed Newman, J. copies distributed,	
3/26	M. TICHE: Defendant Michael J. Tiche's Motion for a Change of	
-5 70E	Wenue, Tiled by door	
3/25	Marshal's return showing service, filed: 14 Subpoenas to testify	
3/25	Marshal S non est return filed: 1 cubnoons to and	
	LUFFEY TILHE KIRAR R RETRES AND D DESDEC. T	
**	of each banded to the U.S. Marshal for service.	
3/25	JUST: Motion to Dismiss Cts 3 & 4 of the amended Indictment, filed	
	by govt and leave of Court is granted Newman I m-3/25/76	
	mailed to Attys Dorsey and Craig.	
The second line is not a second line in case of the second line is not a second line in case of the second line is not a second line in case of the second line is not a second l		

	0.0.0.	Va. Posinisk, Ct als	
	DATE	PROCEEDINGS	
	1976		
	- 3/25	COFFEY: Motion to Dismiss Its 3 & 4 of the Amended Indictment, file	
		by govt, and So Ordered. Newman, J. m-3/26/75, copies ent.	
)	3/26	M. TICHE: Response to Defendant's Motion for Change of Venue, fil	
		by govt.	
	3/26		
	3/20		
	2/06	in Forma Pauperis granted. Newman, J. m-3/26/76.	
	3/26	R. BETRES, D. BUBAR, A. COFFEY, D. TICHE: Notices of Appeal, fil-	
		on 3/23/76 endorsed as follows: "Leave to Appeal in Forma Pauperis	
		granted. Newman, J. m-3/26/76.	
	3/26	P. BETRES: Application for Appointment of Counsel endorsed:	
		Application denied without prejudice to renewal in the Court of	
		Appeals. Rule 4(b), Rules of the Court of Appeals, Second Circuit.	
		Appeals. Rule 4(b), Rules of the Court of Appeals, Second Circuit.	
	- 1	Newman, J. m-3/26/76. copies sent to Deft., Attys Sagarin and Dorsey	
	3/29	Hearing held on Motion for Change of Venue: Court hears oral	
		argument. Court reserve decision on motion for change of venue. Court	
		will decided Atty Clifford's motion to withdray as counsel at the	
		it renders its decision on motion for change of venue. Newman, J.	
		m-3/29/76.	
	2/20		
	3/30	Court Reporter's Notes of Proceedings (Trial) held on Oct. 30,	
		Nov. 4 and Nov. 6, 1975, filed. Russell, P. (three packages)	
	3/29	R. BETRES: CJA Form 21 authorizing transcript of Suppression	
		hearing, impanelling the jury, trial testimony and sentencing, filed.	
		Newman, J. copies distributed.	
	3/31	D. TICHE: Mearing held on Motion for New Trial. Atty Curtis	
	3/31	D. TICHES HEALTH DELG OIL FOLLOW FOR HEALTH ALLY CUITES	
		advises Court that Govt. agrees to give bim additional 302 material	
		which was requested. Court hears deft. on pro se motion for new tria	
		Deft. moves pro se for a rejuction of the bond set in this case. Mot	
		for New trial-decision reserved. Notion for reduction of bond is den	
		Neuman, J. m-3/31/76.	
	3/31	Ruling on Motion To Transfer, filed and entered. it is hereby	
		Ordered that the proceedings in Criminal No. N-75-53 against deft.	
		tornered that the proceedings in Criminal No. N-75-37 against dett.	
		Michael J. Tiche are transferred to the Northern District of New York.	
		Newman, J. m-4/1/76. copies mailed to Attys Dorsey and Clifford.	
		copy sent to Judge Zampano	
	3/31	Motion to Withdray as Counsel (M. TICHE) endorsed: Notion granted.	
		Newman, J. 10-4/1/76. copies mailed to counsel (porsey & Clifford).	
	4/2	Court Reporter's Notes of Proceedings (trial) held on Nov. 11,	
	4/2	Codic Reporter's Notes of Proceedings (trial) little on Nov. 11.	
	7.72	21, and 24, 1975, filed. Russell, R. and Gale, R. (three packages).	
	4/2	M. TICHE: Certified copy of Indictment, Amended Indictment,	
		Ruling on Motion to Trans er, docket entries and Form B. Statistical	
*		Card sent to Clerk, U.S.F.C., for Northern District of N. Y	
	11 11	Court Reporter's Notes of Proceedings (motion) held on March 29,	
		1976, filed Russell, R.	
	11 11		
		Court Reporter's Notes of Proceedings (trial) held on Nov. 26,	
	-17=	1976, Ciled, Gale, R. T.	
	4/5	CJA Form 1 approving payment of \$845.75 to Gerald Gale, Court	
		Reporter, filed Newman, J. copies distributed, re: COFFEY.	
	4/5	JUST: CJA Form 21 approving payment of \$2,640.00 to Cerald Gale,	
		Court Peporter, filed. Newman, J. mx6/5/76. copies distributed.	
	. 1.15	CUALL DICOCLUTION. The Court of	
	- 4/5	SHAW: DISPOSITION: Impr. 5 years on Ct. 1, Impr. 5 yrs on Ct. 2,	
		said sentence to run concurrent with sentence in Ct 1. Execution of	
	-	sentence is stayed until Bureau of Presons designates place of incare	
d	eleted per	ation, at which time the deft. will voluntarily surrender himself to	
	JON.	WXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXX	
		by govt. and so Ordered. Newman, J. m-4/6/76.	
		by govt. and so Ordered. Newman, J. m-2/6//6.	
		,我们就是一个一个一个一个一个一个一个一个一个一个一个一个一个一个一个一个一个一个一个	

DATE	PROCEEDINGS			
.4/5/	Copy of Letter addressed to Judge Mesman From Atty. Denald Brown,			
	Ciled.			
4/6	Ruling on Defendant's Wition for New Total, Miles and entered.			
•	The Motions for New Trial are denied. Hearth, J. p-//6/76. copies			
	sent to Attys, Porsey, Sagarin, Migh r. Cardi, Craic, Zalogitz, and			
4/6	Bowman			
4/0	CJA Form 21 approving payment of \$601. 50 to Gerald G le, Court Reporter, 511.d. Nethan, J. mopies distributed.			
4/6	P. Betres: Request to Chare, 511.4.			
4/6	D. TICKE: Request for bury lastraction: 31.11 v dele			
	D. BURN': Requested Charges to the Jury, Mile 'te det.			
V 11	A. COUCEY, Dock, Attacks to Come and the target			
11 11	de t.			
	R. BETRES: De L. P d Retres' Request to Charge in Supplement.			
11 11	H. TICHE: Requests to Charge, filed by defr.			
	SHAW: Judgment and Commitment, filed and entered. Nesman, J.			
	m-4/7/76. Too certified cop. handed to U.S. Harshal not service.			
4/6	Court Report r's Notes of Proce lines held on Dec. 1, 1973 and			
	April 5, 1976, The Gale, R. (two packages).			
4/7	CJA Form 21 approving payment of \$262.27 to Gerald Gala, Court			
1.70	Reporter, Miled. Neuman, J. copies Matributed.			
4/8	Record on Appeal sent U.S. Court of Appeals. Copies of docket			
and a read	entries and Index sent Attys. Dorsey, Curtis, Craig, Schless, Sagarin, Zaolwitz, Meehan, Neigher and Bowman.			
.:4/9	CJA Form 21 operoving payment of \$620.07 to Robert F. Norton,			
	Investigator, filed. Newman, J. copies distributed.			
11-11	CJA Form 21 approving payment of \$504//5 to Gerak Gale, Court Report			
	Giled. Merman, J. pepies distributed.			
	CIA Form 21 approvingpayment of \$ 18.73 to Gerald Cale, Court			
11 . 11	Reporter, filed. Mesman, J. copies distributed. CJA Form 21 approving payment of \$2,758.50 to Gerald Gale, Court			
	Reporter, filed. Newman, J. copies distributed.			
11 11	GIA Form A approving payment of \$306. 30 1to Geral's Gal. Grount			
	Reporter, Siled. Newman, J. copts distributed.			
4/12	Court Reporter's Moiss of Proceedings (trial) held on Nov. 15,			
· II · G	16 and Dec. 1, 177, 511.6. Bessell, Rang Gal., L. three packages) CIA Form 21 approving payment of SWI.77 to C rald Gal., Court Reporter, 511.6. Bessell, J. comies Matributor.			
	Reporter 511 d. C. conice Mark Mark Court			
4/14	Court Reporter's Notes of Proceedings (trial) held on Nov. 16			
	and 26, 1975, filed. Gale, R. and Russell, R. (100 packages)			
4/19	Receirt for Record on appeal from U.S.C iled. case pir.			
	76-1140.			
4/19				
4/20	Commitment, Deft, committed to U.S.P. Terre Maute, Indiana.			
4/20	endorsed: Anneal bond set at \$75,000 with sweety with provision for			
	Motion for Setting Bail re deft. D. TTCHE, filed by deft. and endorsed: Appeal bond set at \$75,000, with surety with provision for 10% cash deposit. Neuman, J. m-4/20/76. copies given to Attys Curtis			
	and Dorsey and cert.copy mailed to Magistrate Mitchell in Pittsburgh,			
	PA.			
4/27 8	W. Motion for Correction or Peduction of Sentence, filed by deft.			
4/22	D. TICHE: Marshal's return showing service, filed: Judgment and			
	Commitment. Deft. at Lewisburg, Pa.			
-				

U.S.A.	vs. Prelier, of ale Park 20 National			
1976	PROCEEDINGS N-7%-30 Criminal			
1./25	Court Penort on to Material Co.			
	Nov. 26. and 12/2/75. Siled. Justil, P. (Chee packages)			
4/26	SHAW: Notion for Cornection of the Packages)			
-	Motion denied. Newman, J. m-6/27/76. copies sent to Attvs. Dorsey			
4/27	and Clendenen to Altys, Dorsey			
	Court Reporter's Notes of Proceedings (trial) held on Jan. 7, 1976.			
4/28	Court Penorter's Notes 5 7			
	Court Reporter's Notes of Proceedings (trial) held on Dec. 6 and 10			
4/28	JUST: Notion to Poduce (11-11			
6/29	1 COULT CEPOTION & Potion - 1			
4/30	filed. Russell, R.			
	dest and endorged: Motion evanted the trans of Bail, Miled			
	to counsel a series wait			
4/30	Appearance bond in the amount of the Louis, Barshall			
	from the II S Magichante The State of the deposit recieved			
	Receipt acknowledged homest			
1./20	Clerk's Office in New Mayon, Conn.			
5/3	JUST: Co. Form 23, Commental a Comment, Clark by do to.			
	JUST: Marchal's reiten showing service, then by deft. Commitment, De t. at Lewisting, Pa.			
5/3	COPPEY: Gala Porte 71 anchor in the many in the			
11 11	COFFEY: CJA Form 21 author izing nament of Sa, Vi. to to totald Gale.			
	Court Reporter a Motes of Proceedings distributed.			
5/5	Court Tenerter's Motor of Pro-			
5/5	Ciled Progests 2			
-5/6	govt, and andorged: Tolion granted. U.S. Targhal authorized to deliver			
<u>-</u>	povi and and organic to in granted, the target anchorized to date			
	conv handed to H ? I ampled to the to the artested			
5/6	owhility. Merson, i. n-1/7/16 conv cent to U.S. Tarshal authorized to deliver conv handed to U.S. Parshal. Exhibits 64, 72 and 71 handed ever to USM. Order, filed and entered. It is hereby endaged that			
	IDP IMPOSED AS COLLEGE DONA			
	loone is set at tronger dean it			
	Herman, J. n-3/6//3 copic mailed to Atty. Craic and Dorsey and			
5/6	Magistraic Achev, of Pa.			
	Commitment. Deft. at Ashland, Ky.			
5/10	Court Reporter's Hotes of Pro-			
	filed, Gale, R. Hotes of Proceedings (trial) held on Dec. 12, 16			
3/10	Copy of Criminal Annual Co			
5/13	entered, Equipmen, C.I. m-5/11/75,			
•	Marshal's return showing service, filed: Judgment and Commitment re: Bubar, Deft, committed to U.S.P. Atlanta Commitment			
5/14	re: Bubar, Deft. committed to U.S.P. Atlanta, Georgia.			
	M. TICHE" Application for Release of Certain Exhibits, filed by gott. and endorsed: "Application granted." Newman, J. m-5/14/76. copies mailed to Attys Dow and Wm. J. Quinlan. Certified conv. bandides.			
	mailed to Attys Dow and Wm. J. Quinlan. Certified copy handed to U.S.			
5/13	marshal.			
	Reporter, filed, Newman, J. comiss mailed to Gerald Bale, Court			
ıiıı	Reporter, filed. Newman, J. copies mailed to A.O. for payment.			
-,	CJA From 21 authorizing payment of \$614.75 to Gerald Gale. Court Reporter, filed. Newman, J. copies mailed to A.O. for payment.			
•	Topics matted to A.U. for payment.			

DATE 1976	PROCEEDINGS	
. 5/17	Court Reporter's Notes of Proceedings (Trial) heldon 12/15/75, filed	
	Gale, K.	
5/17	M. TICHE: Addendum to Application for Release of Certain Exhibits,	
•	Itled by govt and endorsed: Application granted. Newman I m-5/18/76	
	copies mailed to Atty Dow and Atty Quinlan, Certified cony handed to	
	U.S. Marshal	
5/20	Court Reporter's Transcript of Proceedings (Change of venue motion	
= 121	neld on March 29, 19/6, filed, Russell, R.	
_5/21	Court Reporter's Notes of Proceedings (trial) held on 12/16/75,	
5/18	filed. Russell, R.	
	Court Reporter's Sound Recording of Proceedings (DISP) held on	
5/21	Apr. 5, 1976, filed. Gale, R. Marshal's return showing service, filed: Writ of H. C. re: JUST	
5/21	Receipt for Exs. 72, 73 and 64, received from U.S. Marshal and	
	filed.	
11 11	Receipt for Exs. requested in Govt's Application for Release of	
	Certain Exhibits and Addendum Application for Release of Certain Exs.	
	received from U.S. Marshal and filed.	
11 11	Receipt of Exs. acknowledged by Clerk, U.S.D.C. for N.D.N.Y.	
	and filed.	
6/1	Court Reporter's Notes of Proceedings (rial) held on Dec. 18, 1975,	
	filed, Russell, R.	
_5/28	U.S. Magistrate's Paper's from the Middle District of Pennsylvani	
	received and filed re: DEFT. A. JUST. Docket sheet Wahare Corners	
	UTGEL Specifying Mentods and Conditions of Release and Approximate Rend	
- 6/2	In the amount of \$25,000.00 non surety. Receipt acknowledged	
6/1	P. BETRES: CJA Form 23 (Financial Alfidavit), filed by deft	
6/1	Court Reporter's Notes of Proceedings (trial) held on Dec. 17, 19, 29, 1975 and Jan. 14, 1976, filed. Gale, R.	
6/4		
<u> </u>	M. TICHE: Addendum To Application for Release of Certain	
	Copies mailed to Attys Dow and Quinlan. Certified copy mailed to	
	clerk, U. S.D.C. N.D.N.Y. together with exhibits 1049 and 1051.	
6/4	A. JUST: Motion to Reduce endorsed: Motion denied. Newman, J.	
	m-b/4//b. copies sent to Attys. Dorsey and Bowman.	
6/7	Court Reporter "Notes of Proceedings (trial) held on Dec. 30, 1975	
-617	tiled. Russell. R.	
6/7	Receipt for exhibits 1051 and 1049 acknowledged by Clerk, U.S.D.C. for N.D.N.Y. and filed.	
	Notes of proceedings (Tria?) hald on Ion 5 6 0 0 12	
-6/16	Court Reporter's Notes of proceedings (Trial) held on Jan. 5, 6, 8, 9, 12 and 13, 1976, filed (Russell, Cale, R.)	
6/15	COFFLY: C.A Form 20 approving payment of \$15,411.40 to Andrew B.	
	Bowman, Esq., 1 led. Newman, J. copies mailed to the A.O. for payment.	
11 11	BETRES, R.: CJA form 20 approving payment of \$12,270.75 to Alan	
	Neigher, Esq., filed, Newman, J. copies mailed to A.O. for payment	
11 11	CONNORS: CJA Form 20 approving payment of \$16,495,00 to David S.	
	Golub, Esq., filed Newman, J. copies mailed to A.O. for payment.	
11 11	TICHE, D.: CJA Form 20 approving payment of \$16,320,00 to Jerome	
· · · · · · · · · · · · · · · · · · ·	N Frank Legal Assistance Assoc., filed. Newman, J. copies mailed to	
11 11	A.O. for payment.	
	TICHE, M.: CJA Form 20 approving payment of \$15,160.86 to Thomas	
-	D. Clifford, Esq., filed. Newman, J. copies mailed to A.O. for payment.	
6/23	Court Reporter's Notes of Proceedings (trial) held on Jan. 15,	
	1376, filed. Russell, R.	
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U.S.A. v	s. MOELLER, et als PAGE 21	N-76-59 Criminal
DATE	PROCEEDINGS	
	PROCEEDINGS	
1976	Good Book of Day (1911)	11 12 16 16
6/23/76	Court Reporter's Notes of Proceedings (trial) 1 20, 21, 22, 23, and 26, 1976, filed. Gale, R. Court Reporter's Notes of Proceedings (trial and 29, 1976, filed. Gale, R.	neld on Jan. 16, 19,
(10)	20, 21, 22, 23, and 26, 1976, filed. Gale, R.	
6/24	Court Reporter's Notes of Proceedings (trial) held on Jan. 27, 28
	and 29, 1976, filed. Gale, R.	
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DISTRICT OF CONNECTICUT

UNITED STATES OF AMERICA

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CRIMINAL NO. N-75-59

CHARLES D. MO LLER, ET AL

RULING ON DEFENDANTS' REQUEST FOR A HEARING ON MOTIONS TO DISMISS OR CHANGE VENUE BECAUSE OF PRE-TRIAL PUBLICITY

At hearings on September 5 and 8, the Court endeavored to ascertain from defendants' counsel circumstances that might justify the need for a hearing on motions to dismiss the indictment or change venue because of pre-trial publicity.

Three areas of inquiry were identified; television reports, sources of various items appearing in the media, and public opinion polls.

Defendants are clearly entitled to offer evidence of television reports that they believe entitle them to relief.

However, Court viewing of video tapes of telecasts, as apparently contemplated by counsel, is not necessarily required. In many instances transcripts of telecasts may be available.

With respect to some newscasts, wire service dispatches that formed the source of the newscast may be available. In some instances the written text may touch on a matter of such sensitivity that only a viewing of a video tape can gauge the full impact of the telecast, but that determination can best be made after counsel have furnished the Court with the text of

any telecasts presenting special problems. In the absence of transcripts or wire service dispatches, viewing of video tapes may have to be done, but this will not be permitted unless the need is demonstrated by counsel's affidavit summarizing the content of a telecast. Such affidavits must be filed by September 24, 1975.

To obviate the need for probing of sources of items
that appeared in print, the United States Attorney furnished
counsel with papers acknowledging himself and the Special
Agent in Charge of the New Haven office of the F.B.I. as sources
of various items of which defendants complained. It will be up
to counsel to determine whether additional inquiry is needed.

Public opinion polls may be presented, and live testimony will be necessary to qualify such evidence.

At the September 8 hearing, counsel were advised that the evidentiary phase of the hearing on pre-trial motions would commence on September 29 and continue daily until completion, after which the trial would start unless rulings on motions or events developing at such hearings created cause for delay. Counsel were further advised that the initial matter on which testimony would be taken would concern eyewitness identifications. Testimony on that matter can be expected to consume the entire morning of September 29. Counsel should therefore be prepared to present evidence, consistent with this ruling, on September 29 at 2:00 p.m. and continuing daily thereafter. Any counsel wishing to present evidence beyond the scope of that contemplated by this ruling should issue subpoenas

returnable for September 30, and the need for such evidence can be considered on September 29. SO ORDERED.

Dated at New Haven, Connecticut, this 16th day of September, 1975.

Jon O. Newman

United States District Judge

NEW HAVEN

UNITED STATES DISTRICT COURT

DISTRICT OF CONNECTICUT

UNITED STATES OF AMERICA

V.

CRIMINAL NO. N-75-59

CHARLES D. MOELLER, ET AL

aff

RULING ON DEFENDANTS' MOTIONS FOR BILLS OF PARTICULARS

This Ruling concerns requests directed to Counts 1, 2, 3, 7, 8, and 12, which are the only counts on which the Government has represented it wishes to proceed to trial.

With respect to motions of defendants Moeller and

Bubar:

Count 1

- 1. Denied.
- Denied as to offenses defendant is charged with conspiring to commit; granted as to the number of conspiracies.
 - 3. Granted.
 - 4. 9. Denied.

Count 2

- 1.(a) (c). Granted.
- 1.(a)(1) and (2). Granted.
- 1.(b)(1) and (2). Denied.
- 1.(b)(3), (4), and (5). Granted.
- 1.(c)(1) and (2). Benied.
- 1.(c)(3), (4), and (5). Granted.
- 1.(c)(6). Denied.

2. - 4. The first sentence of each request is granted, on the assumption that "directly" means personally, and "vicariously" means nothing other than the imposition of liability as a principal upon an aider or abetter as prescribed in 18 U.S.C. § 2. The subsections of these requests are denied.

Count 3

and 2. Same Ruling as to items 2. - 4. of Count

Count 12

and 2. Same Ruling as to items 2. - 4. of Count
 in addition, 1.(a) - (c) are granted.

With respect to defendant Coffey's motion:

Count 1

- 1. Denied.
- 2. Granted.
- 3. Denied.
- 4. Granted.
- 5. Granted.
- 6. Cranted as to whether defendant damaged and destroyed Plant No. 4; denied as to in what respect defendant aided and abetted the destruction.
- 7. Granted as to whether defendant made a destructive device; denied as to nature of aiding and abetting.
 - 8. Granted.
 - 9. Granted.
 - 10. Granted.

- 11.(1) (3). Granted; (4). denied.
- 12. G- nted.
- 13. Granted.

Count 2

- 14. Denied.
- 15. Denied.
- 16. Granted.

Count 3

17. Denied.

Count 7

20. Granted.

Count 8

- 21. Denied.
- 22. Granted as to other buildings and as to where and when such other buildings have been burned or destroyed; denied as to how such buildings were destroyed.
 - 23. 25. Denied.

Count 12

Denied.

With respect to defendant Connors' motion:

Count 1

1. - 6. D nied.

Count 2

- 1. Granted.
- 2. Denied.
- 3. Denied.
- 4. Granted.

- 5. Granted.
- 6. and 7. Denied.

Count 3

- 1. Gran :ed.
- 2. 5. Denied.

Count 8

- 1. 3. Denied.
- 4. Granted.
- 5. 6. Denied.

Count 12

- 1. and 2. Granted.
- 3. 5. Denied.

With respect to motions of defendants Ronald and Peter Betres:

Count 8

On the assumption that the reference in the request is to Count 8, the request is denied.

The attempt by defendant Peter Betres to reserve the right to file additional motions of bills of particulars is denied.

With respect to the motion of defendant Michael

Tiche:

Count 1

- 1. 3. Denied.
 - 4. Granted.
 - 5. 10. Denied.
 - 11. 14. Granted.
 - 15. Denied.

1. Denied.

Count 7

1. Granted.

With respect to the motion of defendant Dennis Tiche:

Count 1

- 1. 3. Denied.
- 4. Granted.
- 5. and 6. Denied.
- 7. Granted as to where and from whom purchase was made; denied as to number of drums.
- 8. Granted as to where and from whom purchase was made; denied as to quantity.
 - 9. Granted.
- 10. Granted as to from whom and where truck was rented; denied as to who accompanied defendant.
 - 11. Denied.
 - 12. Granted.
 - 13. Granted.
 - 14. Granted.
 - 15. Denied.

Count 2

- 1. Denied.
- 2. Granted.

Count-3

Denied.

Count 7

1. and 2. Granted.

Count 8

1. and 2. Denied.

With respect to the motion of defendant Anthony Just:

Count 1

- 1. and 2. Denied.
- 3. Granted.
- 4. Denied.
- 5. Granted.

Counts 2, 3, 7, 8, 12

6. and 7. Denied.

Count 2

- 8. and 9. Denied.
- 10. Granted.

Count 3

11. Denied.

Count 8

- 14. Denied.
- 15. Granted, except as to how such buildings were burned and destroyed, which is denied.
 - 16. 18. Denied.

Scope and time of compliance. Since each defendant has separately sought a bill of particulars, the Government need respond only to the requests submitted by each defendant and with respect to the requesting defendant. The motions to adopt motions of other defendants will not be granted with respect to motions for bills of particulars. Information furnished in response to each defendant's motion shall be made

available to all defendants. Compliance shall be made by September 23, 1975.

Dated at New Haven, Connecticut, this 17th day of September, 1975.

Jon O. Newman

United States District Judge

UNITED STATES DISTRICT COURT

NEW HAVEN

DISTRICT OF CONNECTICUT

UNITED STATES OF AMERICA

W.

V.

CRIMINAL NO. N-75-59

CHARLES D. MOELLER, ET AL

RULING ON DEFENDANTS' MOTIONS FOR DISCOVERY AND INSPECTION

With respect to the identical motions filed by defendants Just, Moeller, Bubar, Michael Tiche, and Dennis Tiche:

A.1. Granted with respect to statements of the defendant, whether written, recorded, or contained in a report of an interview of the defendant by a Government agent, or by a state or local police officer if the Government intends to offer such statement in evidence through the testimony of such state or local police officer; denied with respect to statements of co-defendants, statements of the defendant given to third parties who are not law enforcement agents, and statements given to state or local police officers that are not in the Government's possession, custody or control and that the Government does not intend to offer in evidence through the testimony of such state or local police officers. See <u>United States v. Percevault</u>, 490 F.2d 126 (2d Cir. 1974).

A.2. Granted as to reports within the possession, custody or control of the Government; denied as to reports, not within the possession, custody or control of the Government,

prepared for state, local or private parties, except those reports that the Government intends to offer in evidence.

A.3. Granted without objection.

A.4. Denied.

B.1. Denied for lack of a "showing of materiality

B.l. Denied for lack of a "showing of materiality." Fed. R. Civ. P. 16(b).

B.1.(a). Denied.

B.1.(b). Denied. <u>United States</u> v. <u>Percevault</u>, supra.

B.1.(c). Denied as a discovery request under Rule 16; felony convictions of witnesses who testify must be disclosed as Brady material after each testifies.

B.1.(d) Granted without objection; F.B.I. records will be adequate compliance.

B.1.(e). Granted as to any Governmenter, agent, employee or special employee not previously named in the indictment who the Government does not intend to call as a witness and who observed any event or transaction that the Government intends to prove.

B.1. (f). Cranted without objection.

B.1.(g). Granted without objection.

B.1.(h). Granted without objection; Government's representation that none were presented is sufficient compliance.

identifications of a defendant prior to trial in person or from photographs by witnesses the Government intends to call

hearings on defendant's motion to suppress eyewitness identifications.

- D.1. Denied.
- D.2. Denied.
- D.3. Denied, except to the extent previously granted in B.1.(e).
- D.4. Granted without objection; compliance need not be made until the day such witness begins direct testimony.

With respect to motion filed by defendant Connors:

- 1.(a) (c). Granted without objection.
- 1.(d). Denied. United States v. Percevault, supra.
- 2. Denied. United States v. Percevault, supra.
- 3. Granted without objection.
- 4. Granted without objection.
- 5. Denied.
- 6.(a) and (b). Granted without objection.
- 6.(c). Denied.
- 6.(d). Denied, in view of Government's representation that the truck is not within the Government's possession.
- 6.(e). Granted without objection, to the extent available.
- 7. Granted as to defendants; denied as to witnesses, provided that felony convictions of witnesses who testify must be disclosed as <u>Brady</u> material after each testifies.
 - 8. Granted without objection.
 - 9. Denied.
 - 10. Denied.

- 13. Denied.
- 14. Granted without objection.

With respect to the motions filed by defendants
Ronald Betres and Peter Betres:

- 1. Granted without objection.
- Granted without objection; F.B.I. records will be adequate compliance.
- 3. Denied for lack of a "showing of materiality." Fed. R. Civ. P. 16(b).
- Granted without objection as to examinations or tests of physical items.
 - 5 Denied.
- 6. The attempt of defendant Peter Betres to reserve the right to file additional motions for discovery and inspection is denied, except to the extent that such may be prompted by the Government's compliance with motions already filed.

Scope and time for compliance. Since the Court is granting the motions of several defendants to have the benefit of motions filed by any defendant, the Government's response to any motion for discovery and inspection, to the extent granted by this Ruling, must be furnished with respect to all defendants. This does not mean furnishing information responsive to one defendant's request to other defendants; it does mean furnishing to a defendant the same information respecting

PRESENTATION OF SERVICE

that defendant that others are entitled to receive. Except to the extent otherwise specified in this Ruling, compliance shall be made by September 23. Compliance may be made either by furnishing copies of documents to the defendants or serving upon defendants a response indicating the availability for inspection and copying of documents responsive to a request with sufficient identification to permit prompt location.

Dated at New Haven, Connecticut, this <u>//</u> day of September, 1975.

Jon O. Newman

United States District Judge

AS.

UNITED STATES DISTRICT COURT

DISTRICT OF CONNECTICUT

UNITED STATES OF AMERICA

V. : CRIMINAL NO. N-75-59

CHARLES D. MOELLER, ET AL

RULING ON PRE-TRIAL MOTIONS

Several defendants have moved to dismiss various counts of the indictment, or, in the alternative, require the government to consolidate counts or elect between them on the ground that the counts are duplicative or otherwise improperly joined. The government's election to dismiss counts 4, 5, 6, 9, 10, and 11, and corresponding paragraphs 3, 4, 5, 6, and 7 from Count 1, has eliminated many of defendants' objections.

The government presently intends to put defendants on trial on Count 1, charging a conspiracy in violation of 18 U.S.C. § 371; Count 2, charging interstate travel and interstate calls with intent to promote arson in violation of 18 U.S.C. § 1952; Count 3, charging interstate transportation of explosives with intent that they be used to destroy a building in violation of 18 U.S.C. § 844(d); Count 7, charging carrying of a handgun during the commission of a federal felony, in violation of 18 U.S.C. § 924(c); Count 8, charging conducting the affairs of an enterprise affecting interstate commerce through a pattern of racketeering activity, in violation of 18 U.S.C. § 1962(c); and Count 12, charging receipt and

possession of an unregistered firearm, a destructive device consisting of dynamite, in violation of 26 U.S.C. §§ 5861(d) and 5871.

The Court perceives no basis whatever for severing, consolidating, or dismissing counts 1, 2, 3, 7, and 12.

Whether conviction on all or some of those counts would support consecutive punishments is of course not the issue at this juncture. Counts 2 and 3 appear to be the basic substantive violations. While some evidence will no doubt tend to support elements of both counts, Count 3 clearly includes a significantly different element of transporting explosives, in addition to Count 2's allegation of interstate travel or calls with intent to promote arson, which might not necessarily involve use of explosives. Counts 7 and 12 concern readily isolable activities of carrying a handgun and possessing a dynamite device. No basis presently appears for barring the government from also proceeding on Count 1, charging a conspiracy to commit these substantive offenses.

Count 8 may raise more significant issues. Attacks upon Count 8 can best be considered, however, after the government has responded to allowed discovery requests concerning this Count.

Accordingly, all motions to dismiss, conscident, or elect concerning the number and content of the various remaining counts are denied, without prejudice to renewal at trial in the event prejudice not presently foreseen should arise, and without prejudice to further consideration of Count 8.

Defendants Peter and Ronald Betres move to dismiss Counts 3 and 4 of the indictment on the ground that arson is not within the "statutory purview" of 18 U.S.C. § 1952. Since Count 2, and not Count 3, alleges a violation of § 1952, the Court assumes that defendants are intending to attack Counts 2 and 4. The government has elected to dismiss Count 4. The motion to dismiss Count 2 is denied; "arson in violation of the laws of the State in which committed" is specifically included in the statutory definition of "unlawful activity" the promotion of which by interstate travel or communication is proscribed by § 1952.

Defendants Moeller and Bubar move to dismiss Count 2, charging violation of 18 U.S.C. § 1952, Count 4, charging violation of 18 U.S.C. § 844(h) by using an explosive to violate § 1952, and Count 1, charging a conspiracy in violation of 18 U.S.C. § 371, to the extent that violation of § 1952 is alleged to be an object of the conspiracy. The ground of the motion is that § 1952 is an unconstitutional use of Congressional power to penalize activity within state jurisdiction. The government has previously indicated its intention to dismiss Count 4. The motions to dismiss Counts 1 and 2 are denied, the constitutionality of § 1952 having been repeatedly upheld. United States v. Lookretis, 422 F.2d 647 (7th Cir. 1970); United States v. Nichols, 421 F.2d 570 (8th Cir. 1970); Marshall v. United States, 355 F.2d 999 (9th Cir. 1966).

Defendants Dennis and Michael Tiche have moved to dismiss the indictment on various grounds that amount to an

attack on the existence of the grand jury system. No specific allegations of impropriety or irregularity are made. The motions are therefore denied, as are the requests for an evidentiary hearing, for which no need has been shown.

Defendant Just moves to strike various paragraphs of Count 1 on the ground that they duplicate other paragraphs of this count. His motion, as expanded by his brief, urges striking of paragraphs 1 and 3, because they duplicate paragraphs 2 and 4; paragraph 6 because it duplicates paragraph 2; paragraph 7 because it duplicates paragraph 5; and paragraph 8 because it duplicates paragraph 6. The government has elected to delete from Count 1 paragraphs 3, 4, 5, 6, and 7. That deletion moots defendant's last three requests and a portion of his first request. His remaining claim that paragraph 1 should be stricken as duplicative of paragraph 2 is denied; each paragraph alleges different statutory violations as objectives of the conspiracy charged in Count 1, and these objectives -- violations of 18 U.S.C. § 1952 and 18 U.S.C.

Defendants Moeller, Connors, and Just move for severance of their cases and a separate trial of the charges against each defendant. They allege generally that the evidence varies as to quantity and quality between them and their co-defendants. Whether that circumstance will materialize at trial and, if it does, whether prejudice will result are matters best deferred until trial.

Moeller raises an additional claim that he should have a severance to permit him to call co-defendants as

witnesses, since they will otherwise be likely to invoke their privilege against self-incrimination. This conclusory claim does not warrant a severance, especially in the absence of any indication that a co-defendant has exculpatory testimony he would give if defendant Moel r were tried separately. See United States v. Donner, 497 F.2d 184 (7th Cir. 1974); United States v. Somers, 496 F.2d 723 (3d Cir. 1974); Tillman v. United States, 406 F.2d 930 (5th Cir. 1969). Moreover, the co-defendants, facing state charges arising out of the same episode that gives rise to the federal charges, would be no less likely to waive their privilege against self-incrimination, even if Moeller's case were severed and tried after the co-defendants' federal charges.

Defendant Just adds the additional claim that his incarceration in Pennsylvania has prevented adequate time for pre-trial consultation with his attorney. Upon being advised of this claim for the first time on September 3, the Court offered to approve an application to have defendant Just promptly brought to this District. A writ was subsequently issued. Any further claim to relief on this ground will have to be accompanied by a detailed indication of prejudice.

The motions for separate trials are denied, without prejudice to renewal at trial.

Several defendants have moved for disclosure of whether a mail cover or the opening of first class mail sent to or by them has occurred in the investigation of this case. Affidavits of the United States Attorney and of F.B.I. agents and state and Shelton police officials deny that such has

while these denials may well be sufficient to foreclose further inquiry, it would seem appropriate to have a
response from the agency most likely to have knowledge of such
activities, if they occurred, the United States Postal Service.
Accordingly, the government is directed to submit an affidavit
from a responsible official of the United States Postal
Service affirming or denying that mail covers or the opening
of first class mail sent by or to the defendants occurred in
this case. It should be noted that a mail cover, even if it
occurred, is not necessarily grounds for any relief. See
United States v. Leonard, F.2d (2d Cir. Aug. 28, 1975).

In a similar vein, defendant Coffey has moved to suppress handwriting exemplars obtained at the time of his arrest, on the ground that the arrest was tainted by "the illegal and warrantless search of the mail at Beaver Falls, Pennsylvania." No facts are alleged to support this conclusory allegation. Nevertheless, the government is also directed to submit an affidavit from an appropriate official of the United States Postal Service with jurisdiction over the Beaver Falls, Pennsylvania, post office, affirming or denying that a search of defendant Coffey's mail has occurred.

Coffey's motion to suppress is denied, without prejudice to renewal in the event the government's response indicates a search of his mail has occurred.

Several defendants have moved for production of all grand jury testimony. The generalized request for such testimony on the ground that it will be helpful in preparation of a

defense is denied. The testimony of trial witnesses will be available pursuant to § 3500.

Defendants make a more specific claim of entitlement to the transcripts, based on the fact that evidence concerning the offenses charged was presented to two grand juries. Presentation of evidence concerning the destruction of the Sponge Rubber plant at Shelton began on March 12, 1975, to a grand jury whose eighteen-month term expired on March 30, 1975. The United States Attorney represented at oral argument that he did not know on March 12 whether there would be time to complete presentation of evidence and seek return of indictments. The fact that only eighteen days remained in the term of the grand jury does not raise any question as to the government's good faith in presenting evidence to that grand jury, rather than seeking the empanelling of a grand jury with a full eighteen-month term. Even if the prosecutor were certain time did not permit completion of the evidence, there is no reason he could not begin presentation of evidence, and then have transcripts read to a subsequent grand jury, if circumstances precluded the witnesses' reappearance. In the Matter of Grand Jury Investigation of the Banana Industry, 214 F.Supp. 856 (D. Md. 1963).

Defendants further contend that disclosure of transcripts is needed to probe their claim that the government acted improperly in furnishing the second grand jury, which returned the indictment, summaries of the evidence presented to the first grand jury. The United States Attorney has represented that the second grand jury was informed that testimony had previously been presented to the first grand jury, but was not given any summaries of that testimony. Thus the vice of using summaries, condemned in the Banana Industry case, is not present here. Moreover, alerting the grand jury to the fact of prior testimony gave its members adequate opportunity to make inquiry as to those witnesses and the purport of their testimony in the event the grand jury desired their reappearance.

Defendant Moeller adds the additional claim that two witnesses, alleged to be close associates of Moeller, were called to the first but not the second grand jury. That circumstance does not entitle Moeller to any relief.

The Court has reviewed in camera the transcripts of the evidence presented to the first and second grand jury and is entirely satisfied that there is no basis for disclosing their entire contents to defendants, nor for dismissing the indictment on defendants' claim of improper abuse of the grand jury process.

Several defendants have moved for the production of evidence favorable to the accused as required by <u>Brady</u> v.

<u>Maryland</u>, 373 U.S. 83 (1963). To the extent the motions call for information that is favorable to the accused, as to issues of guilt or innocence, as to impeachment of government witnesses, and as to mitigation of sentencing, the motions are granted. To the extent the motions are broader than these requirements of <u>Brady</u>, the motions are denied. For example,

its file as to whether such material "may lead" to favorable evidence.

With respect to the specific requests in the motions of defendants Just, Michael Tiche, and Dennis Tiche:

- (a) Granted.
- (b) Denied.
- (c) Granted.
- (d) Denied.
- (e) Granted, limited to statements concerning discussing the case with defense counsel.
 - (f) Denied.
 - (g) Granted.

Several defendants have moved that the government be required to have present at trial various documents to assure compliance with 18 U.S.C. § 3500 and United States v. Youngblood, 379 F.2d 365 (2d Cir. 1967). The motions are granted to the extent they request availability at trial of all written statements of all prosecution witnesses, all transcripts of testimony of all prosecution witnesses, and memoranda and reports of interviews of prosecution witnesses, to the extent required by § 3500. Memoranda and reports which "concern" such interviews, but do not contain statements of the witnesses within the meaning of § 3500 are not included, nor is correspondence concerning such interviews.

Several defendants have filed motions concerning the destruction by F.B.I. agents of their handwritten notes subsequently incorporated in their typewritten reports. By app. 84

letter dated May 30, 1975, the United States Attorney advised couled for defendant Moeller that handwritten notes had been destroyed "in accordance with Bureau policy." The letter also states:

It is my understanding that the Bureau requires the transcribed report to be compared against the original notes and verified at which time it is optional with the Special Agent as to whether the raw, original notes are retained. In this instance, all of the raw notes have not been retained.

Based on this representation, defendants have moved to dismiss the indictment, for a hearing to probe the destruction of handwritten notes, and for an order requiring that all notes be preserved and impounded.

"imposes no duty on the part of law enforcement officers to retain rough notes when their contents are incorporated into official records and they destroy the notes in good faith."

<u>United States v. Terrell, 474 F.2d 872, 877 (2d Cir. 1973).</u>

That statement does not quite foreclose defendants' claims.

It may imply the need for a hearing in every case as to whether the notes were accurately incorporated in official records and whether their destruction was in good faith. If such inquiry needs to be made, an order requiring preservation of notes not yet destroyed might be warranted. This Court declines to infer such requirements from <u>Terrell</u> or any other of the reported decisions construing the Jencks Act. The profusion of appellate rulings in recent years that have been held to require pre-trial hearings have threatered to make

delayed, wearied, and frustrated beyond reasonable endurance by the need to conduct protracted preliminary hearings in every seriously contested case. Until instructed by statute, rule, or authoritative appellate decision of the need for hearings concerning the destruction of all F.B.I. notes, this Court will decline to order them as to every agent who interviewed the numerous witnesses in this case or to order preservation of notes to facilitate such hearings.

Further inquiry may of course become required by circumstances developed during the cross-examination of any witness, cf. Killian v. United States, 368 U.S. 231 (1961); Campbell v. United States, 365 U.S. 85 (1961); United States v. Lor do, 350 F.2d 523 (6th Cir. 1965), and an indication of prejudice may well warrant appropriate sanctions. Government retention of handwritten notes will avoid that risk, but is not required by § 3500.

The motions to dismiss the indictment because of destruction of F.B.I. agents' notes, and for an order requiring preservation of remaining notes is denied.

Several defendants have moved for disclosure before trial of promises, express or implied, or consideration offered to government trial witnesses. The motions for disclosure are granted, <u>Giglio</u> v. <u>United States</u>, 405 U.S. 150 (1972), but such disclosure will not serve as a device to identify the names of prospective witnesses and therefore need not be made until such witnesses have been called to testify.

The government is of course encouraged to make such material, and Jencks Act material in general, available to defense counsel somewhat earlier than is required in the interests of avoiding delays during the trial.

Defendants Moeller and Bubar have moved for a hearing in advance of trial at which the government would be required to present, by testimony or affidavit, its evidence of a conspiracy and of the defendants' own acts and declarations establishing by a fair preponderance of the evidence their membership in the conspiracy. While determination of whether the government has sufficiently met its burden in order to admit the acts and declarations of co-conspirators in furtherance of a conspiracy is always somewhat complicated in a multidefendant case, that circumstance does not warrant a wholesale preview of the government's case against each defendant. Under the allegations of this indictment, it appears unlikely that the government will be able to establish a prima facie case sufficient to warrant submission to the jury against any defendant as to whom it cannot establish the existence of a conspiracy or a joint venture in the commission of substantive offenses, and a defendant's membership in the conspiracy or joint venture. If a defendant's case could be established without such a showing, and would be prejudiced beyond repair by instructions to disregard acts and declarations of coconspirators, a motion for mistrial would be in order. The motions for a hearing in limine are deried.

Defendants' motion to conduct an individual voir dire of prospective jurors is denied. Voir dire inquiry will be

conducted by the Court. Counsel should submit by October 3, 1975, questions they wish to have propounded to the venire.

Several defendants have moved to increase the number of peremptory challenges; defendant Moeller also requests that he be allotted challenges to be exercised independently of other counsel. Defendants will be allotted additional peremptory challenges beyond the ten specified in Fed. R. Crim. P. 24(b). The number of challenges will be determined after preliminary inquiry of the venire, when the number of eligible and available veniremen is determined. Counsel will exercise their challenges separately, unless two or more elect to exercise their allotted challenges jointly. No defendant will be allotted a largernumber of challenges than any other defendant.

Several defendants have moved to adopt the motions of all other defendants. These motions are granted, except as to motions for bills of particulars, since each defendant has filed his own motion for a bill of particulars, requesting information pertinent to his case, and except as to any motion in which the relief sought is personal to a particular defendant, such as a motion for separate trial of a defendant. The granting of these motions to adopt should not be construed to confer standing on any defendant to make any claim that he could not otherwise have made.

Several defendants have moved for additional time to file pre-trial motions. Except to the extent granted in open court, these motions are denied, without prejudice to

the right of any defendant to seek leave of Court to file additional pre-trial motions in light of subsequent developments, including government responses to discovery requests.

Dated at New Haven, Connecticut, this day of September, 1975.

Jon O. Newman

United States District Judge

UNITED STATES DISTRICT COURT

DISTRICT OF CONNECTICUT

UNITED STATES OF AMERICA

V.

CRIMINAL NO. N-75-59

CHARLES D. MOELLER, ET AL

MEMORANDUM OF DECISION ON PRE-TRIAL MOTIONS

In this criminal prosecution arising out of the alleged arson of the Sponge Rubber Products Co. plant in Shelton, Connecticut, scores of pre-trial motions have been filed, three of which require extended discussion since they raise important and troublesome issues.

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The first set of motions concerns the required scope of the government's response to allegations of wiretapping.

Defendants Moeller, Dennis Tiche, Michael Tiche, Just, and Bubar have moved for disclosure of any electronic surveillance. None of these motions alleges anything; they simply make inquiry. In addition, defendants Just, Michael Tiche, and Dennis Tiche have moved to suppress evidence derived from electronic surveillance. These motions allege "on information and belief that the defendant's conversations have been overheard by means of electronic surveillance." Finally, defendant Bubar has also moved to suppress evidence derived from electronic surveillance, but without any allegation that such has occurred.

. Presumably the defendants are seeking to invoke 18
U.S.C. § 3504, requiring the government to "affirm or deny"
electronic surveillance "upon a claim by a party aggrieved
that evidence is inadmissible because it is the primary product
of an unlawful act or because it was obtained by the exploitation of an unlawful act . . . "

In this Circuit, the assertion of wiretapping is apparently sufficient to trigger the government's obligation under § 3504. United States v. Toscanino, 500 F.2d 267 (2d 267 (2d Cir. 1974); In re Grusse, ___ F.Supp. ___ (D. Conn.), aff'd sub nom., United States v. Grusse, 515 F.2d 157 (2d Cir. 1975). But see In re Buscaglia, 518 F.2d 77 (2d Cir. 1975).

To discharge its obligation, the government has submitted several affidavits in which the United States

Attorney and other officials deny that any electronic surveillance occurred in the investigation of this case and also affirmatively aver that all the government's evidence has been obtained from "direct" sources. Affidavits have been submitted by F.B.I. agents in New York City, Cleveland, Chicago, Pittsburgh, Memphis, New Haven, and Washington, D. C., the Connecticut state police officer with respon ibilities for investigation of the case, and the Shelton police chief. At oral argument, the defendants challenged the sufficiency of these denials, contending that other government agencies, such as the Alcohol, Tobacco, and Firearms Division of the Treasury Department, the Central Intelligence Agency, and the National Security Agency should also have been checked.

The scope of a government check necessary to satisfy the obligation of § 3504 has not been clarified in this Circuit. United States v. Grusse, supra, a civil contempt proceeding against a grand jury witness, approved a check limited to the agency investigating the case, though the concurring opinion of Judge Lumbard urged further inquiries as a "salutary practice." 515 F.2d at 159 n. 1. Broader inquiries have, of course, been made. See United States v. Aloi, 511 F.2d 585, 602 (2d Cir. 1975).

In <u>Grusse</u> this Court was persuaded of the sufficiency of a check limited to the agency that had investigated the case because the slight risk of some undetected wiretapping was outweighed by the grand jury's legitimate interest in the prompt conduct of its business. That factor also weighed heavily with the Court of Appeals. 515 F.2d at 158. A second factor militating against a broader inquiry, relied on in Judge Lumbard's concurring opinion, was the high likelihood that the United States Attorney handling the case and the F.B.I. agent in charge of the investigation would know whether the results of electronic surveillance had been used to gain information on which the questions put to the grand jury witness were based. 515 F.2d at 159. See also <u>In re Buscaglia</u>, <u>supra</u>, 518 F.2d at 79.

These factors, applicable in the context of challenges to questions put to grand jury witnesses, are not necessarily of equal force in the context of a criminal prosecution. Cf. United States v. Persico, 491 F.2d 1156 (2d Cir. 1974). Of course there is an important interest in

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prompt trials, but not at the expense of determining whether a defendant's rights have been violated. The governmental interest in promptly obtaining an indictment to initiate a prosecution, when violators may be at large, is greater than the interest in promptly concluding a prosecution of defendants in custody or released on bail. It is also not entirely clear that those with responsibility for investigating and prosecuting a case can be as certain that no results of wiretapping have entered their files and led to evidence as those with the narrower responsibility of framing a set of questions to a particular grand jury witness. In instances where the grand jury investigation is far-reaching, however, this distinction may be marginal or entirely evanescent.

Though this motion arises in a context differing from cases involving grand jury witnesses, I am not persuaded that § 3504 requires a broader search of government agencies than has occurred here. In the first place, the statute does not contemplate a generalized inquiry by every criminal defendant as to whether there has been wiretapping. It gives the right to demand a response only to those who present a claim that evidence is inadmissible. See Lennon v. United States, 387 F.Supp. 561 (S.D.N.Y. 1975). While it is helpful for defense counsel to make their claims ahead of, rather than during, a trial, we must not lose sight of the fact that the statute accords a right to those who have a complaint about some specific item of evidence. These defendants have made no complaint about any evidence. Moreover, in giving

the right to demand a response to those challenging specific evidence, a claim normally made during trial, the Congress would seem to have contemplated situations warranting at least as much speed as is appropriate to grand jury inquiries.

Prompt, if somewhat limited, responses should therefore be sufficient.

Secondly, there are no intimations in the recent Court of Appeals' opinions in <u>Grusse</u> and <u>Buscaglia</u> that the affidavits there found adequate would not suffice in a criminal prosecution.

Finally, there is considerable merit in the view of the Ninth Circuit, expressed in only a slightly different context, that "a general claim [of wiretapping] requires only a response appropriate to such a claim." United States v. See, 505 F.2d 845, 856 (9th Cir. 1974). Unlike the respondents in Grusse, these defendants have alleged no facts whatever to support a belief that wiretapping has occurred. Obviously care must be taken lest too rigorous a test be constructed for assessing the scope of response required by a defendant's claim. The development of increasingly sophisticated techniques of electronic surveillance will lessen the likelihood that beeps, clicks, or other strange sounds will alert a telephone user to the possibility of a tap. If strange noises provided the only basis for a government response of broad scope, a premium would be placed upon undetectable surveillance However, § 3504 points toward a quite different basis for

claiming the possibility of wiretapping -- the likelihood that a particular item of evidence, by its nature, probably resulted from & stronic surveillance. An adequately supported claim of this sort, at least raising a suspicion that the evidence came from wiretapping, may well require the government to "affirm or deny" on the basis of a comprehensive inquiry of agencies with surveillance capability. An adequate claim that an individual has been the subject of governmental curiosity may suffice to require an inquiry of agencies with intelligence gathering responsibilities. However, a naked allegation that wiretapping has occurred may be sufficient to trigger § 3504's obligation to make some response, but not necessarily an obligation to check the files of government agencies having no apparent connection with a case. To such a claim, the sworn denial by the prosecutor and the investigating agencies should suffice. These agencies, however, should indicate whether reports from any other agencies have been used in the investigation, in which event a response from such other agencies would seem necessary. In this case, the averment in the affidavits that all of the evidence developed in the investigation came from "direct" sources seems sufficient to preclude the risk that reliance was placed on reports of other agencies that may in turn have been developed from electronic surveillance.

I have previously expressed some wonderment as to why the government does not have a central computerized or manual indexing system that would permit it promptly to make a

government-wide response to an inquiry about wiretapping. See

In re Turgeon, ___ F.Supp. ___ (D. Conn. June 3, 1975). But

in the absence of a more precise requirement expressed in

§ 3504, or Fed. R. Crim. P. 16, or the decisions of the Second

Circuit, I conclude, with some reluctance, that the scope of

the inquiry reflected in the affidavits submitted in this case
is sufficient.

Accordingly, the motions to disclose are granted, the government's response is deemed sufficient compliance, and the motions to suppress are denied, no indication of wire-tapping having been disclosed. Defendants may elicit a more comprehensive governmental response if any objection to evidence presents a reasonable basis for suspicion that the evidence has been obtained by wiretapping.

II

Defendant Moeller has moved to suppress the testimony he gave in response to questions by Protection Mutual Insurance Co. This motion presents the question of whether a statement furnished by an officer of a corporate insured during an examination by the insurer has been compelled in violation of the constitutional protection against self-incrimination by reason of the fact that the examination was conducted pursuant to provisions of a fire insurance policy that are specified by state statute.

Conn. Gen. Stat. § 38-98 sets forth the so-called 165-line standard form of fire insurance policy that is required for use in Connecticut. See Conn. Gen. Stat. § 38-99.

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One provision specifies that no action for the recovery of any claim shall be sustainable "unless all the requirements of this policy shall have been complied with," and one of those requirements is: "The insured . . . shall . . . submit to examinations under oath by any person named" by the insurer.

Protection Mutual Insurance Co. issued a fire insurance policy containing the terms specified in Conn. Gen. Stat. § 38-98 to Grand Sheet Metal Products Co., insuring premises in Shelton, Connecticut, known as "Plant No. 4" of the Sponge Rubber Products Co., a division of Grand Sheet Metal. On March 1, 1975, the Sponge Rubber plant was destroyed by fire. In April, 1975, the corporate insured filed a claim of loss for an amount in excess of the \$51,578,000 face amount of the policy.

On April 23, 1975, the federal grand jury in this district returned an indictment, charging Charles Moeller and others with various violations of federal law arising out of the destruction of the Sponge Rubber plant. Moeller is the majority stockholder of Ohio Decorative Products Co., which wholly owns Grand Sheet Metal. After the indictment the insurer requested of the insured that Moeller be produced for examination under oath. Confronted with what he alleged to be a choice between answering the insurer's questions and thereby subjecting himself to the risk of self-incrimination or invoking his privilege against self-incrimination and thereby subjecting his company to the risk of loss of its claim for insurance, Moeller filed a civil action, seeking a

declaration concerning his right to invoke his privilege against self-incrimination. This Court dismissed that suit, without adjudication of the merits, finding that Moeller was not entitled to a declaratory judgment. Moeller v. Protection Mutual Insurance Co., Civil No. N-75-153 (D. Conn. June 23, 1975). See Hudson Tire Mart, Inc. v. Aetna Casualty & Surety Co., 518 F.2d 671 (2d Cir. 1975).

Thereafter Moeller submitted to examination by the insurer. Now, in the context of the criminal case, he moves to suppress that sworn testimony.

The government interposes a threshhold objection that the motion is premature. It asserts a right to obtain the statement from the insurer even if Moeller should ultimately prevail in his contention that his testimony was compelled by state action to an exten sufficient to trigger Fifth Amendment protection. In that event, the government seems to concede, Moeller would be entitled to immunity against use of his testimony by the federal government, see Murphy v. Waterfront Commission, 378 U.S. 52 (1964); see also Garrity v. New Jersey, 385 U.S. 493 (1967), and the government would then have to bear the burden of demonstrating that any evidence alleged to have been derived from the statement was actually derived from independent sources, see Kastigar v. United States, 406 U.S. 441, 460-62 (1972). But, as the government contends, it could still use the testimony to pursue the investigation and perhaps prosecute other still unknown perpetrators of the crimes alleged. It could also, despite

whatever Fifth Amendment protection Moeller can assert, use the testimony against Moeller's co-defendants, perhaps not by offering it in evidence, but surely by using it as an aid to further investigation of the charges against them and as a resource for effective cross-examination of them.

At the moment the government has not yet obtained the testimony, though it has issued a subpoena <u>duces</u> tecum to the insurer to obtain it. 2/ Even if the government can demonstrate a clear right to obtain the testimony, Moeller is entitled now to an adjudication of whether the testimony can be used against him in the pending criminal case. The government has acted to obtain the testimony, and no useful purpose would be served by postponing decision until the document is physically in its hands. Indeed, it is in the government's interest to have the issue decided now, since a ruling in Moeller's favor would give the government the option of not acquiring the testimony until after Moeller's trial, thereby providing insulation against a claim that government evidence has been derived from the testimony.

Turning to the merits, the Court must decide whether the statute requiring the standard form fire insurance policy constitutes state compulsion of Moeller's testimony within the purview of the Fifth Amendment. Moeller asserts that by mandating the provisions of the insurance policy the state has compelled the questioning and that the loss of coverage for refusing to answer is an economic consequence of sufficient gravity to warrant constitutional protection. See United

States ex rel. Sanney v. Montanye, 500 F.2d 411, 414-15 (2d Cir. 1974). The government contends that Moeller testified voluntarily and that the pressure to answer, if any, was exerted by the insurer, not by the state.

Neither side (nor the insurer in the prior declaratory judgment action) has cited any case where the issue has arisen in the context of a criminal prosecution. Prior decisions have indicated that the privilege is unavailable, though they have involved suits by an insured seeking to collect benefits despite assertion of the privilege as justification for not submitting to examination. See Hickman v. The London Assurance Corp., 184 Cal. 524, 195 Pac. 45 (1920); Gross v. United States Fire Insurance Co., 337 N.Y.S.2d 221, 71 Misc. 2d 815 (Sup. Ct., Kings Co., 1972); Restina v. Aetna Casualty & Surety Co., 306 N.Y.S.2d 219, 61 Misc. 2d 574 (Sup. Ct., Schenectady Co., 1969); Kisting v. Westchester Fire Insurance Co., 290 F. Supp. 141 (W.D. Wis. 1968). Though these decisions do imply that statutory mandating of the examination provisions does not make the testimony state compelled, they hold only that the insured cannot use the privilege as a sword to obtain benefits, whereas this defendant seeks to use it only as a shield to guard against incrimination. In Hudson Tire Mart Inc. v. Aetna Casualty & Surety Co., supra, the district court thought the presence of state action in similar circumstances was "very doubtful," but the Second Circuit, in sustaining the denial of an injunction to bar the examination, assumed for purposes of that appeal that there was state action, 518 F.2d at 673, thus leaving the question unresolved.app.

Even if Moeller's testimony can be considered compelled or involuntary in the constitutional sense, 6/ persuaded that the state has not been involved in either compelling the questioning nor imposing the economic consequences for refusal to answer to a sufficient extent to invoke Fifth Amendment protection. There is no basis for concluding that Connecticut has enacted § 38-98 to assist law enforcement authorities in the investigation of arson. Long before the statute was enacted, insurance companies were entitled to condition payment of benefits upon an insured's submitting to examination under oath. The insurers needed no legislation to continue to assert that prerogative. evident purpose of the legislature, in enacting the 165-line standard policy previously promulgated in New York, 27 McKinney's Consolidated Laws of N.Y. Ann. § 168(b), was simply to insure uniformity among the various insurance policies issued in the state.

A purpose of achieving uniformity does not end the inquiry, however, since the enactment of some provisions, even for a non-coercive purpose, might nevertheless sufficiently involve state power in the compulsion of testimony to invoke Fifth Amendment protection. But \$38-98 does not have that effect. The statute does not require the insurer to conduct any examination at all. Whether an examination occurs is entirely up to the insurance company. Nor does the statute, of its own force, require Moeller to answer any questions. If he refuses to testify, the state has no power to compel

answers, as in <u>Garrity</u> v. <u>New Jersey</u>, <u>supra</u>, nor does it have the power to impose adverse consequences, as in <u>Lefkowitz</u> v. <u>Turley</u>, 414 U.S. 70 (1973). In the event of a refusal to be examined, the insurance company, not the state, makes a determination whether to assert that the condition of cooperation has been breached.

At most the state has by statute authorized a private entity to do exactly what it was entitled to do in the absence of legislation. Cf. Otten v. Baltimore & O. R. Co., 205 F.2d 58 (2d Cir. 1953); see generally "Constitutionality of Permissive Legislation," 65 Yale L. J. 724, 728-29 nn. 25, 29, 30 (1956). It is true that the statute requires the insurer to adopt the standard form policy, but the provisions of that policy authorize and do not require the insurer to examine the insured. In some contexts state authorization may be considered a sufficient encouragement to invoke constitutional limitations. Cf. Reitman v. Mulkey, 387 U.S. 369 (1967). If what is encouraged is racial discrimination, state action may well be found, especially in this Circuit where the threshhold for state action is apparently lowered in the racial context. See Weise v. Syracuse University, ___ F.2d ___ (2d Cir. July 14, 1975); Jackson v. The Statler Foundation, 496 F.2d 623 (2d Cir. 1974).

In the context of this case, however, the state purpose of achieving uniformity in insurance policy provisions is sufficiently removed from any implied purpose of aiding criminal investigations that it would be improper to consider statutory authorization for questioning to be the kind of

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encouragement that invokes constitutional limitations. The case would be quite different if the statute required that upon every presentation of a claim of loss, the insurer must question the insured, and that upon the insured's refusal to answer any question, the insurer must refuse to pay benefits. Even in the interest of uniformity, the state could not require questioning and require adverse consequences for refusal to answer without invoking Fifth Amendment protections. This statute stops well short of that compulsion. The insurer is not acting as agent of the state. Compare United States ex rel. Sanney v. Montanye, supra, with United States v. Solomon, supra.

The motion to suppress is denied.

III

Several defendants have moved to dismiss Count 8 of the indictment on various grounds, including contentions that the statute involved is void for vagueness, that Count 8 is duplicative of other counts in the indictment, and that Count 8 fails to charge an offense. Only the last ground will be considered, since the Court finds it is a sufficient basis for dismissing Count 8. Fed. R. Crim. P. 12(b)(2).

Count 8 charges a violation of 18 U.S.C. § 1962(c), a provision added to the Criminal Code by Title IX of the Organized Crime Control Act of 1970. 84 Stat. 942. The statute provides:

It shall be unlawful for any person employed by or associated with any enterprise engaged in, or the activities of which affect, interstate or foreign commerce, to conduct or participate, directly or indirectly, in the conduct of such enterprise's affairs through a pattern of racketeering activity or collection of unlawful debt.

Two related provisions, § 1961(a) and (b), proscribe investing funds from a pattern of racketeering activity in an enterprise affecting commerce and acquiring an interest in such an enterprise by a pattern of racketeering activity.

Title 18 U.S.C. § 1961 contains three definitions necessary to an understanding of the scope of § 1962(c).

"'Racketeering activity' means (A) any act or threat involving

... kidnaping ... arson ... which is chargeable under state law and punishable by imprisonment for more than one year"; "'enterprise' includes any ... group of individuals associated in fact although not a legal entity"; "'pattern of racketeering activity' requires at least two acts of racketeering activity, one of which occurred after the effective date of this chapter and the last of which occurred within ten years (excluding any period of imprisonment) after the commission of a prior act of racketeering activity." § 1961(1), (4), (5).

Count 8 charges as follows:

From December, 1974, the precise date to the Grand Jury being unknown, and continuously thereafter up to and including the date of the filing of this indictment, in the District of Connecticut and elsewhere, CHARLES D.

MOELLER, DAVID N. BUBAR, PETER BETRES, RONALD D. BETRES, ALBERT R. COFFEY, ANTHONY A. JUST, DENNIS C. TICHE, MICHAEL J. TICHE, JOHN W. SHAW, and DONALD L. CONNORS, constituting and being associated with an enterprise engaged in, and the activities of which affected interstate commerce as defined by Title 18, United States Code, Section 1961(4), to wit: a group of individuals associated in fact for the

purpose of burning and destroying buildings, did unlawfully, wilfully and knowingly conduct and participate in the affairs of such enterprise through a pattern of racketeering activity as defined by Title 18, United States Code, Section 1961, to wit: arson, in violation of Connecticut General Statutes (Rev. 1958 as Amended), Section 53a-113, and kidnapping in violation of Connecticut General Statutes (Rev. 1958 as Amended) Section 53a-92,

In violation of Title 18, United States Code, Section 1962(c) and 2.

As the overall indictment makes clear, the arson referred to in Count 8 is the burning of Plant 4 of the Sponge Rubber Products Company at Shelton, Connecticut. In a bill of particulars, item F.3.a., the government has somewhat refined Count 8 by stating: "No buildings other than Plant 4, Sponge Rubber Products Company, Shelton, Connecticut, are alleged to have been burned or destroyed." At oral argument the government has made clear that this response is to be understood as specifying both that Plant 4 is the only building destroyed and that it is the only building that the alleged enterprise had a purpose to destroy. The indictment also alleges that the

victims of the kidnapping alleged in Count 8 were three employees of the Shelton plant, see Count 1, overt act q., and that the kidnapping and the arson both occurred on March 1, 1975. Thus, the essential structure of Count 8 is the allegation that the defendants formed an enterprise to burn the Shelton plant, and that they conducted the affairs of that enterprise by committing two acts, burning the plant and kidnapping three employees of the plant.

Three issues arise in considering whether Count 8 states an offense. The first is whether the statutory requirement of a "pattern of racketeering activity" is adequately alleged by an allegation of two acts that occurred in the course of a single criminal episode.

Were the question open, I would have seriously doubted whether the word "pattern" as used in § 1962(c) should be construed to mean two acts occurring at the same place on the same day in the course of the same criminal episode. While the statutory definition makes clear that a pattern can consist of only two acts, I would have thought the common sense interpretation of the word "pattern" implies acts occurring in different criminal episodes, episodes that are at least somewhat separated in time and place yet still sufficiently related by purpose to demonstrate a continuity of activity. I would further have thought that the normal canon of narrowly construing penal statutes points toward such an interpretation. Finally, I would have thought the legislative history made such an interpretation clear. Thus, the Senate Report explains:

The concept of 'pattern' is essential to the operation of the statute . . . The target of Title IX is thus not sporadic activity. The infiltration of legitimate business normally requires more than one 'racketeering activity' and the threat of continuing activity to be effective. It is this factor of continuity plus relationship which combines to produce a pattern. S. Rep. 91-617, 91st Cong., 1st Sess. 158 (Emphasis added).

However, the issue has been authoritatively resolved in this Circuit by <u>United States</u> v. <u>Parness</u>, 503 F.2d 430 (2d Cir. 1974), <u>cert. denied</u>, 419 U.S. 1105 (1975). In that case the pattern of racketeering activity by which the takeover of a hotel was accomplished consisted of three acts: two acts of interstate transportation of stolen property and one act of causing a person to travel in interstate commerce in furtherance of a scheme to defraud. The two acts of interstate

transportation of stolen property occurred on February 4 and February 9, 1971, only five days apart, and were intimately related; the first involved the transportation of \$155,000 in cashier's checks to repay a loan, and the second involved the transportation of \$5,000 to pay the lender's attorney. More significantly, the interstate travel activity consisted of causing a person to travel to a bank on February 4 to pick up the cashier's checks. Any two of these three acts was held to constitute the requisite pattern of racketeering activity. 503 F.2d at 438. A "pattern" can apparently be established in this Circuit by two acts occurring on the same day in the same place and forming part of the same criminal episode. 7/

The second issue arising under Count 8 is whether the alleged enterprise whose affairs the defendants are accused of conducting through a pattern of racketeering activity is the type of enterprise that is within the scope of § 1962(c). The indictment alleges that the enterprise is "a group of individuals associated in fact for the purpose of burning and destroying buildings." Plainly an enterprise of this sort is not a legitimate business, and the question arises whether or not the enterprises covered by the statute are limited to legitimate businesses.

The statutory definition of "enterprise" contains no words of limitation concerning the lawfulness of activities. § 1961(4). The legislative history, however, provides the clearest indication that Congress intended "enterprise" to mean legitimate businesses. The Senate Report states that

Title IX "has as its purpose the elimination of the infiltration of organized crime and racketeering into legitimate organizations operating in interstate commerce." S. Rep. 91-617, 91st Cong., 1st Sess. (1969) (hereafter "Report"). The section-by-section analysis states that "Section 1962 establishes a threefold prohibition aimed at the infiltration of legitimate organizations." Id. at 159. The Report's discussion of Title IX repeatedly refers to "legitimate" organizations as the ones to be protected, lists a number of illustrations, and at no point remotely suggests that Title IX is intended to penalize investing in, acquiring, or conducting the affairs of unlawful enterprises. Id. at 76-83. The congressional intent is also evidenced by a comment concerning the civil remedies of Title IX, which complement the criminal sanctions. These civil remedies, says the Report, are "broad remedial provisions for reform of corrupted organizations." Id. at 160. That comment can have reference only to a legitimate business corrupted by racketeering money or activity.

Whatever doubt may exist as to whether "enterprise" should be construed to include unlawful organizations in addition to legitimate businesses must be resolved against such a broad construction for two reasons. First is the traditional canon of resolving ambiguities in criminal statutes in favor of lenity. See Rewis v. United States, 401 U.S. 808, 812 (1971); Bell v. United States, 349 U.S. 81, 83 (1955). More pertinent is the concern, grounded in principles of

federalism, not to give federal criminal laws a broad construction that "would alter sensitive federal state relationships" or "transform relatively minor state offenses into federal felonies." Rewis v. United States, supra, 401 U.S. at 812; United States v. Five Gambling Devices, 346 U.S. 441 (1953). If "enterprise" in § 1962(c) includes unlawful ventures, then the statute could be used to prosecute any unlawful activity that affected interstate commerce so long as the participants in the activity committed any two acts within the broad definition of racketeering activity. Congress may have power to extend federal criminal jurisdiction that fa into areas normally handled by the states, but it should take a clear indication of legislative intention before such a sweeping purpose is attributed to it.

The hazards of such a broad interpretation are high-lighted by comparing its consequences with Title VIII of the Act. In that title, Congress extended federal criminal authority into the area of gambling, but did so under strict limitations. The illegal gambling businesses proscribed by Title VIII are only those that involve five or more persons and remain in substantially continuous operation for more than thirty days or have a gross revenue of \$2,000 in a single by.

18 U.S.C. § 1955(a). If § 1962(c) were interpreted to include unlawful activities, the limitations of § 1955 could be easily circumvented. A federal prosecution could be brought against any gambling enterprise with any effect on interstate commerce whenever the operators committed two acts in violation of any

state gambling statutes. Congress could not have enacted minimum criteria in Title VIII for number of participants and scope of the gambling activity and then intended Title IX to be used to prosecute gambling activities that fall short of these criteria.

All of this would seem beyond argument were it not for the holding of the Seventh Circuit that § 1962 is not limited to legitimate enterprises. United States v. Cappetto, 502 F.2d 1351 (7th Cir. 1974). With deference I am unable to accept that decision. An essential part of the argument in Cappetto is that the Senate Report on Title IX demonstrates Congress' intention to include illegal gambling businesses within the category of enterprises covered by § 1962. For this proposition the opinion quotes from pages 72 and 73 of the Report, 502 F.2d at 1358. But the quoted excerpt concerns Title VIII, dealing with proscribed gambling businesses, and not Title IX, dealing with enterprises to be protected from racketeering influences. That excerpt and Title VIII itself demonstrate that when Congress wanted to proscribe an illegitimate enterprise, it knew precisely how to do it.

Cappetto also drew some support from the Second

Circuit's refusal to give the word "enterprise" a narrow

reading in <u>Parness</u>. But that view was expressed in rejecting

appellant's contention that "enterprise" included only domestic

businesses, the Court holding that a foreign business was also

protected from racketeering influences so long as it was a

business affecting United States commerce. That decision had

no occasion to consider expanding the coverage of "enterprise" to include unlawful activities, with all of the implications of such an interpretation for extending federal authority and undermining the precise limitations of Title VIII.

I conclude that "enterprise" in § 1962 means what the Senate Report says -- legitimate activity. Plainly a group of individuals associated "for the purpose of burning and destroying buildings" is not the type of legitimate business that Congress was seeking to protect from racketeering influences.

A third issue that arises under Count 8 is whether, even if 'enterprise' could be interpreted to include an unlawful venture, it should be interpreted to cover a venture designed to accomplish one specific criminal episode, or whether "enterprise" connotes a requirement of some continuing activity. Since the legislative history refers only to legitimate businesses, it is not surprising that it furnishes no guidance as to whether illegitimate ventures must be of a continuing nature. But the entire purpose of Title IX indicates that a venture formed to commit one criminal episode could not have been within Congressional intendment, even if that episode were carried out by a "pattern" consisting of two acts. Title IX was intended to safeguard a continuing enterprise from the influences of racketeering. If "enterprise" in § 196. means not only an unlawful venture but also one established to accomplish a single criminal episode, the extraordinary extension of federal criminal authority that

ensues from including unlawful ventures becomes even greater.

At least <u>Cappetto</u>, in extending "enterprise" to unlawful ventures, did so only in the context of an activity that was plainly of a continuing nature.

As previously explained, the government has narrowed the allegation of Count 8 to allege an enterprise concerned solely with the burning of Plant 4 at Shelton. A venture to burn a single building is not an "enterprise" proscribed by § 1962; it is quite simply an arson punishable by state law.

Primarily because § 1962 does not include unlawful ventures among the "enterprises" to be safeguarded from racketeering influences, and also because "enterprise" does not include a group associated to commit a single criminal episode, Count 8 does not allege an offense under federal law and is therefore dismissed.

Other motions have been ruled on in a menorandum made available to counsel.

Dated at New Haven, Com ecticut, this Z day of October, 1975.

Jon O. Newman

United States District Judge

FOOTNOTES

- In the civil action Moeller sought a declaration (1) that he could invoke the protections of the Fifth Amendment, (2) that the filing of his civil suit seeking a declaration of rights was not a breach of the policy either by Moeller or by the corporate insured, and (3) that invoking his privilege against self-incrimination was not a breach of the policy, provided he testified fully before bringing suit on the policy.
- 2/ Apparently the government intends to obtain the testimony through the use of a grand jury subpoena, a course that would be questionable if the grand jury were being improperly used to prepare a pending case for trial. See

 United States v. Fisher, 455 F.2d 1101, 1104-05 (2d Cir. 1972);

 United States v. Pack, 150 F.Supp. 262, 264 (D. Del. 1957).

 Perhaps the prospect of apprehending as yet unidentified perpetrators of the alleged crimes can justify the subpoena. Or the insurer, knowing it can be compelled by subpoena to produce the testimony at trial, may simply surrender it to the government in advance of trial. Though alerted to the existence of the grand jury subpoena, Moeller has made no objection other than the Fifth Amendment claim.
- 3/ It is not at all apparent that defendant Moeller might have suffered the personal economic loss necessary to trigger the protection of the Fifth Amendment had he chosen not to give his statement to Protection Mutual. If Moeller's app.

non-cooperation had forfeited the policy, the loser of the insurance proceeds would have been the corporate insured, Grand Sheet Metal, and not Moeller. Doubtless such a loss would have reduced the value of Moeller's shares in the parent company, but it is not so clear that a person electing to do business through a corporate form can assert his corporation's loss as the economic consequence that entitles him to Fifth Amendment protection. Cf. United States v. Rosenstein, 474 F.2d 705, 715 (2d Cir. 1973).

4/ There is some plausibility to the government's contention that Moeller's testimony was not compelled by anyone, i.e., that he gave it voluntarily. Clearly he was not under any order to testify. No suit was brought by either the insurer or the corporate insured to compel his testimony.

Secondly Moeller may have had the option of refusing to be examined until after the criminal trial and then submitting to examination afterwards within the one-year period from date of loss within which suit on the policy must be brought. In <u>Hickman</u> v. <u>The London Assurance Corp.</u>, 184 Cal. 524, 195 P. 45 (1920), the Court noted this possibility and indicated that the insurer's rejection of an insured's offer to be examined after the criminal trial may remove any prior default.

<u>5</u>/ In all four cases the courts explicitly acknowledged that the examination provisions were fart of a standard form policy mandated by state statute <u>kinkman</u> v.

The London Assurance Corp., supra, 184 Cal. at 525; Gross v.

Phited States Fire Insurance Co., supra, 337 N.Y.S.2d at 222;
Retsina v. Aetna Casualty & Surety Co., supra, 306 N.Y.S.2d
at 220; Kisting v. Westchester Fire Insurance Co., supra, 290
F. Supp. at 145. However, none of these decisions explicitly discussed whether the legislation implicated the self-incrimination privilege. Moeller contends that the force of Hickman and the New York decisions following it has been eroded by the subsequent ruling that the Fifth Amendment is applicable to the states. Malloy v. Hogan, 378 U.S. 1 (1964). However, Hickman did explicitly reckon with the self-incrimination clause of the California constitution.

6/ The distinction is discussed in <u>Garrity v. New</u>

<u>Jersey</u>, <u>supra</u>, 385 U.S. at 501 (Harlan, J., dissenting); <u>see</u>

<u>also United States v. Solomon</u>, 509 F.2d 863 (2d Cir. 1975).

It is arguable that <u>Parness</u> is distinguishable from the present case. In <u>Parness</u> the acts held to constitute the pattern of racketeering activity and the context in which they occurred supported an inference that they were part of a pattern of continuing activity, even though the acts were closely related in time. The crime charged in <u>Parness</u> was itself an activity of a continuing nature, an elaborate scheme to accomplish the takeover of a hotel. By contrast, the crime charged in Count 8 appears to be a discrete criminal venture, the arson of a building, even though some preparatory steps were undoubtedly necessary. However, there is no indication in <u>Parness</u> that the Court of Appeals requires anything more

\$ 1961(5) than two acts of racketeering, regardless of whether their occurrence implies continuing activity.

8/ Nor is there one word in the House floor debates over the Organized Crime Control Act that would indicate that any member of Congress thought Title IX would reach anything but legitimate business. Representative Poff, the floor manager for the bill, stated:

[P]erhaps the single most alarming aspect of the organized crime problem in the United States in recent years has been the growing infestation of racketeers into Legitimate
business enterprises
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At least six other congressmen expressed the opinion that Title IX was intended to prevent the infiltration of legitimate businesses, and none ever discussed the statute in terms that might be thought to have contemplated the government's use of § 1962 in the present case. 116 Cong. Rec. 35,196 (remarks of Rep. Celler); <u>id.</u> at 35,200 (remarks of Rep. St. Germain); <u>id.</u> at 35,201 (remarks of Rep. McCulloch); <u>id.</u> at 35,206 (remarks of Rep. Kleppe); <u>id.</u> at 35,304 (remarks of Rep. Railsback); <u>id.</u> at 35,319 (remarks of Rep. Anderson); <u>id.</u> at 35,193 (remarks of Rep. Poff).

9/ In the floor debate on Title IX, Congressman

Poff stated that "The proposed statute is not aimed at the isolated offender. . . ." 116 Cong. Rec. 35,193 (Oct. 6, 1970).

10/ It is not entirely clear whether the government's narrowing of its claim in this regard indicates that Count 8 fails to allege an offense justifying dismissal, or that there is an insufficiency of proof, warranting a directed judgment of acquittal. See United States v. Sisson, 399 U.S. 267 (1970).

UNITED STATES DISTRICT COURT

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DISTRICT OF CONNECTICUT

U. S. DISTRICT COURT NEW HAVEN, CONN.

UNITED STATES OF AMERICA

V.

CRIMINAL NO. N-75-59

CHARLES D. MOELLER, ET AL

MEMORANDUM OF DECISION ON DEFENDANT BUBAR'S MOTION TO SUPPRESS

Defendant Bubar moves to suppress items taken from a car. The only items the Government seeks to introduce into evidence are latent fingerprints of John Shaw and Michael Tiche, which were lifted from the interior of the car, and a slip of paper found inside the car. The Government seeks to validate the search on the basis of consent given by Charles Moeller.

The car in question is a 1973 Chevrolet owned by

Sponge Rubber Products Co., an operating division of Grand

Sheet Metal Products Co. The Sponge Rubber Co. used the car,
and apparently made the car available, sometimes with a driver,
for use by others. Bubar was among those who had been given
permission to use the car, both with and without a driver.

His permission had been given sometime prior to 1975 by Charles

Moeller, the president of Grand Sheet Metal. Bubar was at the

Sponge Rubber plant in Shelton, Connecticut, on March 1, 1975,
and had arranged to be driven in the Chevrolet by a company
driver to New York City. At some point during the lay, Bubar

changed his plans and decided to drive himself to New York City.

He notified the driver that the driver was to come to the McAlpin Hotel in New York City, where Bubar was staying, and retrieve the car. While driving to New York City, Bubar made a further change in plans and decided to park the car in a lot at I Guardia Airport. His intention was to travel by taxi between the airport and his hotel, and return to Shelton on March 3 in the car. There is no indication that he ever told the company's driver or anyone else that the driver need not come to New York to retrieve the car.

In the early morning hours of March 2 F.B.I. agents questioned Bubar at his hotel room. He informed them the car was at LaGuardia Airport, but refused their request to turn over the keys. Late in the afternoon of March 2, Moeller executed a form giving F.B.I. agents consent to search the Chevrolet. It is undisputed that the consent was voluntarily given; Moeller had the advice of counsel at the time.

Bubar challenges the sufficiency of Moeller's consent, contending that he, Bubar, had an expectation of exclusive use of the Chevrolet until its return. Yet Bubar's last expressed communication to the company's driver was that he intended to make only a one-way trip from Shelton to New York, with the driver coming to New York to retrieve the car.

Bubar's expectation must have been that the driver, as a representative of Sponge Rubber Products, would have access to the car when he came to pick it up in New York. This specific expectation on Bubar's part coupled with his knowledge that the company car was made available to many different people by

risk that someone from Sponge Rubber would permit the car to be searched. <u>United States</u> v. <u>Matlock</u>, 415 U.S. 164, 171 n. 7 (1974).

Bubar's possession of a key to the car is simply irrelevant in this context. A person given temporary use of a company car cannot reasonably expect that the owner will be unable to gain access with another set of keys. While Bubar claims that he thought there was only one set of keys to the car, his vague testimony that he had been told this cannot be credited. In fact, the company's traffic manager retained a second set of keys to the car in his desk at the plant. In any event, Bubar's possession of a key -- especially when he could reasonably expect others to have keys to the same car -does not create a reasonable expectation of exclusive access to the interior of the car. This car was not assigned for Bubar's personal use. Had the company decided to use the car to drive an airport arrival to Shelton and send another car to bring Bubar back from New York City, such an arrangement would not have defeated any of Bubar's legitimate expectations of privacy. The company was accommodating him with free transportation, not assigning him the exclusive right to possess any particular vehicle.

Since the company had access to the car and, as owner, had a substantial interest in it, the company could consent to its search, see <u>United States</u> v. <u>Gradowski</u>, 502 F.2d 563 (2d Cir. 1974); <u>United States</u> v. <u>Gargiso</u>, 456 F.2d

584 (2d Cir. 1972). Moeller, as president of the company, was fully qualified to act for the company.

The Government asserts no right to search the interior of Bubar's personal possessions within the car, see United States v. Pravato, 505 F.2d 703 (2d Cir. 1974). Nor is the car itself, in the circumstances in which Bubar was using it, an area entitled to as high an expectation of privacy as a desk regularly and exclusively used by a company employee. Cf. United States v. Blok, 188 F.2d 1019 (D.C. Cir. 1951). The slip of paper taken from the car was not removed from any personal belongings of defendant Bubar.

Moeller's consent validated the search, and the motion to suppress is denied.

Dated at New Haven, Connecticut, this / day of November, 1975.

Jon O. Newman

United States District Judge

UNITED STATES DISTRICT COURT

DISTRICT OF CONNECTICUT

UNITED STATES OF AMERICA

V.

CRIMINAL NO. N-75-59

DAVID N. BUBAR, ET AL

RULING ON DEFENDANTS' MOTIONS FOR NEW TRIAL

The six defendants convicted on various charges stemming from the dynamite-fire bombing of the Sponge Rubber Plant 4 in Shelton, Connecticut, have each moved for a new trial on several grounds. Many of the issues raised were ruled on adversely to defendants during the course of the trial, and the reasons for those rulings are stated in detail in the record and will not be repeated.

Before considering the points that merit discussion, it may be appropriate to comment briefly on the context in which the claims arise. A criminal trial, even of a single defendant on a single, uncomplicated charge, cannot achieve perfection. When, as here, nine defendants are tried on four different charges with testimony presented by 182 witnesses during the course of a trial lasting five months, it is inevitable that a flawless trial will not occur. A new trial is to be granted only "if required in the interest of justice," Fed. R. Crim. P. 33, and "Any error . . . which does not affect substantial rights shall be disregarded." Fed. R. Crim. P. 52(a). Cf. 28 U.S.C. § 2111.

In this case nine defendants were tried together. The jury convicted six, acquitted two, and were unable to reach any verdicts with respect to one. The deliberateness of their decision-making is reflected in the schedule of their verdicts reported during the fifteen days of their deliberations, which occurred during a four-week period due to weekends, holidays, and juror illnesses: January 14 (1st day), Connors not guilty; January 19 (4th day), Bubar and D. Tiche guilty on all four counts; January 22 (6th day), Moeller not guilty; January 29 (10th day), Just, Coffey, P. Betres, and R. Betres guilty on counts 1 and 2, jury reports disagreement as to these defendants on counts 3 and 4; February 3 (12th day), P. Betres guilty on counts 3 and 4, R. Betres not guilty on count 4 (count 3 had been dismissed); February 5 (14th day), mistrial declared as to Just and Coffey on counts 3 and 4 because of jury disagreement; February 11 (15th day), mistrial declared as to M. Tiche on all counts because of jury disa reement. Moreover, during the course of their deliberations, the jury made nine requests for additional instructions and eight requests for a reading of portions of testimony.

No one present at the trial could doubt that the jury's schedule reflected only their extreme conscientiousness and their understandable uncertainty, reflected in their questions, as to the relationship of the concept of aiding and abetting to the technical elements of counts 3 and 4.

The evidence of the guilt of those convicted was overwhelming and largely undisputed, including a detailed account by an

accomplice participant, fingerprints, cancelled checks, handwriting analyses, room registration cards, and identifications by numerous disinterested witnesses. Only defendant Dennis Tiche denied involvement, and his testimony confirmed many details of the government's evidence and was inherently implausible in its denials. Defendant Just offered alibi witnesses, but their mistake as to the date involved was demonstrated by the presence of Just's fingerprints in a motel room occupied by two other defendants in Danbury, Connecticut, at a time when his alibi witnesses thought he was in Pennsylvania. 1/

It is in the context of a trial of such length, with proof so strong, and jury deliberation so careful that assessment must be made of defendants' claims for a new trial.

The principal ground asserted is that the prosecutor's summation improperly called the jury's attention to the failure of five of the six convicted defendants to testify.

The references complained of occurred during the prosecutor's rebuttal argument. The fact is there was no explicit reference to the failure of any defendant to testify, much less a suggestion that the jury should draw any adverse inference because of a defendant's failure to testify. What did occur were numerous references to a defendant's failure to offer an explanation for salient features of the government's case.

Viewed in isolation, these references could be construed as an implicit reference to a defendant's failure to testify.

In the contex' f the total rebuttal argument, however, it is

apparent that they were references to the failure of defendants' counsel to answer the prosecutor's contentions in his
opening argument. The risk of misinterpretation arose
because the prosecutor frequently referred to a defendant,
when he intended to refer to defendant's counsel. His
intention is made clear by these extracts from the early
portions of his rebuttal argument:

"A lot of times in the course of the arguments I think the defendants have referred to various aspects of what they would want you to consider in the attempt to try to divert you from what are basically the issues in the case." (Tr. 10). "Now, the defendants have also suggested to you that you should consider the credibility of John Shaw as he had his statements . . . " (Tr. 13). "Now, the defendants themselves have made arguments, and I would like to deal to a limited degree with what they have said . . . " (Tr. 20). All three of the above excerpts preceded any reference in the rebuttal to a lack of explanation from any defendant. The jury clearly understood it was the lawyers who had made the arguments, not the defendants themselves. The point was made even clearer in this excerpt: "What I'm suggesting to you is that Mr. Connors [a defendant] has not in any way adequately explained away the thrust of the government's case, as Mr. Golub [counsel for defendant Connors] has made the argument . . . " (Tr. 28-29).

The references to lack of explanation were as follows: "Now, the position of the defendant Lubar I think

is also extremely vulnerable because you had absolutely no explanation for much of his involvement, much of his whereabouts. Specifically and particularly, you have no explanation as to his efforts to obtain an alibi. You have phone calls made to a Mr. Wilhelm down in Tennessee, and no explanation for that at all." (Tr. 21-22). "I submit to you that there has been no refutation of the thrust of the government's case insofar as the defendant Bubar is concerned." (Tr. 23). Referring to a calendar introduced in evidence on behalf of defendant Just, the prosecutor said, "Now, having in mind that no real explanation was made as to why that block for March 1 wasn't utilized . . . " (Tr. 30). Referring to the case of Dennis Tiche, who did testify, the prosecutor said, "No explanation was offered as to the source of that, no other records offered as to where that money came from." (Tr. 39). 'You also have from Mr. Tiche no explanation about the phone calls." (Tr. 40). "And the same thing is applicable for Michael Tiche, because in no way has there been any adequate explanation for the existence of that fingerprint in the back of the automobile of defendant Bubar." (Tr. 42). "Mr. Coffey refers to various testimony, and I would only suggest to you that in no way has he refuted the fact that his handwriting has been identified on the Avis contract, his handwriting has been identified up there at the Danbury motel in a room which defendants Just and Ronald Betres are also placed." (Tr. 48). "Ronald Betres has in no way explained the telephone call made from New Jersey the early morning

(Tr. 10,891)

hours collect to his own phone in Pennsylvania." (Tr. 48).

"And the claimed lack of any explanation from Mr. Bubar as to what was done with the money or his activities strongly suggests that Mr. Moeller had much more knowledge than he was in any way willing to concede." (Tr. 53).

To be sure the jury took these references to mean attorneys' failure to argue and not defendants' failure to testify, the Court gave the following cautionary instruction to the jury immediately upon the conclusion of the prosecutor's rebuttal:

"I will discuss many topics in the charge tomorrow. I think perhaps I ought to just clarify one thing right at this instant. In the course of the arguments that you have heard, first the government's argument, defendants' replies, and then the government's as it is called, rebuttal. times there was a reference back and forth either to an attorney or to a defendant. Sometimes they were almost interchangeable. There might have been a reference to, 'Mr. X said' or, 'didn't say' something. sometimes it was the attorney and sometimes it was sort of the personification of that defense using the defendant's name rather than the attorney's name.

"Well, I just want to be clear with you, I will say more about this in the charge, that when any argument is made that somebody didn't say something, that's be argument of the lawyers. That's in no way a reference to a defendant not doing something. As I will say to you in detail tomorrow, those defendants that chose, as is their right, not to testify have an absolute constitutional right not to testify and there can be no adverse inference drawn from that fact whatsoever.

"Now, that the lawyers say to each other is a matter of argument. One lawyer says, 'You [had] a chance to [argue] and you

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didn't make an argument.' That's a matter of argument back and forth between the lawyers, and to the extent there was an interchange of names as between a lawyer and his client, I just want to be sure that there is no doubt in your mind that the references are to explanations or lack of them among lawyers and not among defendants. Some defendants did not testify, as is their right, and there's to be absolutely no adverse implication at all from the fact that a defendant did not testify."

(Tr. 55-56).

Following this caution, defense counsel requested additional instructions, and the Court further instructed the jury as follows:

"Ladies and gentlemen, with reference to what I said to you just before you took your recess, I indicated to you the way I thought you should treat the colloquy between counsel, and instructed you to take any reference that may have been made to counsels' argument or to a named defendant, as the case may be, as referring to counsels' argument and not to what a defendant did or did not do, and I explained to you just a few minutes ago the strict rule of law that applies in these situations.

"I will simply add to that, that, to whatever extent the argument of government counsel called upon any defendant to testify or to explain away any evidence, to whatever extent that may have occurred, such argument was improper, uncalled for and illegal.

"Now, the argument may not have been intended to be taken that way at all, and I have instructed you not to take it that way. I think that is all I will say on the topic right now. I will make some other references to this and other issues tomorrow when I instruct you on all the principles of law that apply to this case." (Tr. 64-65).

In sum, there were no references in the rebuttal to a defendant's failure to testify, there were references to a lack of explanation, which in context, especially in light of the prosecutor's early remarks in his rebuttal, referred to a lack of explanation by defense counsel, see United States v. Hart, 407 F.2d 1087, 1090 (2d Cir. 1969), and whatever ambiguity may have been created was promptly set straight by the Court cautionary instructions. These circumstances afford no basis for granting a new trial. United States v. Nasta, 398 F.2d 283, 285 (2d Cir. 1968). As it turned out, whether a defendant testified did not correlate with the jury's verdicts. Moeller and Dennis Tiche both testified; the former was acquitted, and the latter was convicted. The other seven defendants did not testify; five of these were convicted, Connors was acquitted, and the jury deadlocked as to Michael Tiche. Indeed, the first verdict returned was the acquittal of Connors, who did not testify.

A somewhat related point is urged by defendant

Dennis Tiche, who contends that the prosecutor reversed the

burden of proof by arguing to the jury that the Tiche defense

failed to produce evidence to support some of the claims

advanced in testimony of Tiche himself and some of his

witnesses. For example, the prosecutor argued, "Furthermore,

he claims that he has certain receipts for certain trips, but

where are the receipts for the gas that he charged on the

trip of the 17th?" (Tr. 40). The burden of proof was not

reversed, as the Court's instructions made clear. There is

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weakness of defense evidence by arguing that there is no corroborating evidence to support defense claims. See <u>United States v. Tramunti</u>, 513 F.2d 1087, 1119 (2d Cir. 1975);

<u>United States v. Dioguardi</u>, 492 F.2d 70, 81-82 (2d Cir. 1974);

<u>United States ex rel. Leak v. Follette</u>, 418 F.2d 1266, 1268-70 (2d Cir. 1969).

Several defendants complain of the Court's refusal to permit Loretta Marley to be cross-examined with respect to specific instances of misconduct allegedly reflecting on the credibility of John Shaw, the government's principal witness. Miss Marley was called as a defense witness and gave her opinion that John Shaw had a bad reputation for truth and veracity and that she would not believe him. On crossexamination the prosecutor asked whether she would believe him if his testimony were corroborated. It is defendants' contention that the putting of this question permitted elicitation of specific instances of Shaw's misconduct pursuant to Fed. Rules Evid. 608(b)(2), which permits such instances to be inquired into "in the discretion of the court . . . on cross-examination of the witness . . . concerning the character for truthfulness or untruthfulness of another witness as to which character the witness being crossexamined has testified." Apart from the fact that the rule leaves such matters to the discretion of the trial court, it is simply unrealistic to think that by putting the one question to the witness on his cross-examination, the

prosecutor was presenting her as his witness on the subject of Shaw's character for truthfulness. Defense counsel presented her as a witness to Shaw's character for untruthfulness, the prosecutor's question did not change the essence of her testimony, and there was no basis to permit other defense counsel to elicit instances of Shaw's misconduct under the pretense that they were cross-examining a witness whom the prosecutor had submitted on the issue of Shaw's character for truthfulness. Moreover, all defense counsel were permitted a far-ranging cross-examination of Shaw himself, lasting for portions of five days, which included probing as to specific acts of misconduct not normally within the bounds of cross-examination.

Several defendants complain of the Court's failure to instruct the jury as to the elements of the offense of arson under Connecticut law, the predicate offense to the charge of violating 18 U.S.C. § 1952, interstate travel with intent to promote arson in violation of state law. No counsel requested that the elements of the state offense be given. The jury was instructed generally that "a person commits arson in violation of Connecticut law if he recklessly causes destruction of a building of his own or another by intentionally starting a fire or causing an explosion." In any event, the elements of the underlying state offense need not be given in an instruction concerning § 1952, so long as the substance of the state offense is explained. See United States v. Gerhart, 275 F. Supp. 443 (D.C. W. Va. 1967). No

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complaint is made as to the enumeration of the elements of § 1952 itself.

Defendants' other points were all raised during trial, and rejected for reasons stated on the record.

The motions for new trial are denied.

Dated at New Haven, Connecticut, this <u>6</u> day of April, 1976.

Jon O. Newman

United States District Judge

FOOTNOTES

I/ A fair jury issue was tendered as to defendant Coffey's actual presence in the plant as one of the trio that kidnapped the three guards, a role testified to by Shaw; the conflicting testimony was the height description given by the guards, which described the trio as five feet, ten inches or more, whereas Coffey is five feet, four inches. Of course, the jury was entitled to conclude that the height descriptions were the mistaken product of fear produced by gun-point abduction. In any event, handwriting analysis confirmed Coffey's signature on the rental papers for the truck used to transport the dynamite and gasoline to Shelton from Pennsylvania, and there was virtually no dispute that Coffey was an occupant of the Danbury motel room with Just and R. Betres the morning of the fire.

2/ One explicit reference to a defendant's failure to testify occurred during the prosecutor's opening argument. In referring to what Connors had said in statements given to the F.B.I. and the grand jury, the prosecutor made it clear that he was referring to out of court statements, since Connors had not testified. The obvious purpose of the remark was to avoid any misunderstanding that the prosecutor was claiming Connors had testified in Court. In any event, Connors was acquitted, and this reference had no adverse effect on any other defendant.

United States District Court

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DISTRICT OF CONNECTICUT

HAR 25 3 43 PH '76

United States of America

v. DAVID N. BUBAR a/k/a NOBLE DAVID BUBAR U. S. DISTRICT COURT HEW HAVEN, CONN.

N-75-59 Criminal

On this 22nd day of March , 1976 came the attorney for the government and the defendant appeared in person and by counsel

It is Adjudged that the defendant upon his plea of not guilty and the jury having returned a verdict of guilty has been convicted of the offense of violation of Title 18, Sections 371, 1952 844(d), 2 and violation of Title 26, Sections 5861(d) and 5871 (conspiracy, interstate travel to carry on an unlawful activity, interstate transportation of explosives and possession of an unregistered firearm)

as charged in Counts One through Four of the retyped four Count VED

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U. S. ATTORNEY'S OFFICE

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and the court having asked the defendant whether he has anything to say why judgment should not be pronounced, and no sufficient cause to the contrary being shown or appearing to the Court,

IT Is ADJUDGED that the defendant is guilty as charged and convicted.

IT Is ADJUDGED that the defendant is hereby committed to the custody of the Attorney General or his authorized representative for imprisonment for a period of five (5) years on Count One.

IT IS ADJUDGED that the defendant is committed to the custody of the Attorney General or his authorized representative for imprisonment for a period of five (5) years on Count Two; said sentence is to run consecutively to the sentence imposed on Count One.

IT Is/ADJUDGED that the defendant is committed to the custody of the Attorney Ceneral or his authorized representative for imprisonment for a period of ten (10) years on each of Counts Three and Four; said sentences are to run concurrently with each other and consecutively to the sentences imposed on Counts One and Two. The aggregate sentence is, therefore, twenty (20) years.

IT Is Ordered that the Clerk deliver a certified copy of this judgment and commitment to the United States Marshal or other qualified officer and that the copy serve as the commitment of the defendant.

United States District Judge.

The Court recommends commitment to "

Insert "by Iname of counsel, counsel" or without counsel; the court advised the defendant of his rights to counsel and asked him whether he desired to have counsel appointed by the court, and the defendant thereupon stated that he waived the right to the assistance of counsel." Insert (1) "guilty and the court being satisfied there is a factual basis for the plea," (2)—"not guilty, and a verdict of guilty," (3) "not guilty, and a finding of guilty," or (4) "nolo contendere," as the case may be. Insert "in count(s) number "if required in the first of the plea," (2) whether sentences are to run concurrently or consecutively and, if consecutively, when each term is to begin with reference to termination of preceding term or to any other outstanding unserved sentence; (3) whether defendant is to be further imprisoned until payment of the fine or fine and costs, or until he is otherwise discharged as provided by law. Enter any order with respect to suspension and probation. For use of Court to recommend a particular institution.

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United States District Court FOR THE

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DISTRICT OF CONNECTICUT

U. S. DISTRICT COURT NEW HAVEN, CONN.

United States of America

ANTHOMY A. JUST

N-75-59 Criminal

, 19 76 came the attorney for the day of March government and the defendant appeared in person and ' by counsel

IT Is ADJUDGED that the defendant upon his plea of a not guilty and the jury having returned a verdict of guilty has been convicted of the offense of violation of Title 18, Sections 371, 1952 and 2, of the United States Code (conspiracy and interstate travel to carry on an unlawful activity)

as charged in Counts One and Two of the retyped four-count Indictment and the Court having declared a mistrial as to Counts Three and Four

and the court having asked the defendant whether he has anything to say why judgment should not be pronounced, and no sufficient cause to the contrary being shown or appearing to the Court,

IT Is Adjudged that the defendant is guilty as charged and convicted.

It Is Adjudged that the defendant is hereby committed to the custody of the Attorney General or his authorized representative for imprisonment for a period of 'five (5) years on Count one.

MAR 2 6 1976

U. S. ATTORNEY'S OFFICE NEW HAVEN, CONNECTICUT

further

Attorney General or his authorized representative for imprisonment for a period of five (5) years on Count Two; said sentence is to run consecutively to the sentence imposed on Count One. The aggregate sentence is, therefore, ten (10) years.

It is Ordered that the Clerk deliver a certified copy of this judgment and commitment to the United States Marshal or other qualified officer and that the copy serve as the commitment of the defendant.

United States District Judge.

The Court recommends commitment to

Clerk.

Insert "by [name of counsel], counsel" or without counsel; the court advised the defendant of his rights to counsel and asked him whether he desired to have counsel appointed by the court, and the defendant thereupon stated that he waived the right to the assistance of counsel." Insert (1) "guilty and the court being satisfied there is a factual basis for the plea," (2) "not guilty, and a verdict of guilty," (3) "not guilty, and a finding of guilty," or (4) "nolo contendere," as the case may be. Insert "in count(s) number "if required Enter (1) sentence or sentences, specifying counts if any; (2) whether sentences are to run concurrently or consecutively and, if consecutively, when each term is to begin with reference to termination of preceding term or to any other outstanding unserved sentence; (3) whether defendant is to be further imprisoned until payment of the fine or fine and costs, or until he is otherwise discharged as provided by law. Enter any order with respect to suspension and probation. For use of Court to recommend a particular institution.

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DISTRICT OF CONNECTICUT

MAR 25 3 43 PH '76

United States of America

DENNIS C. TICHE

U. S. DISTRICT COURT NEW HAVEN, CONN.

No. N-75-59 Criminal

On this 22nd day of March , 1975 came the attorney for the government and the defendant appeared in person and ' by counsel

IT IS ADJUDGED that the defendant upon his plea of a not guilty and the jury having returned a verdict of guilty has been convicted of the offense of violation of Title 15, Sections 371, 1952, 844(d), 2 and violation of Title 26, Sections 5861(d) and 5871 (conspiracy, interstate travel to carry on an unlawful activity, interstate transportation of explosives and possession of an unregistered firearm)

as charged in Counts One through Four of the retyped four count VED

MAR 2 6 1976

U. S. ATTORNEY'S OFFICE NEW HAVEN, CONNECTION

and the court having asked the defendant whether he has anything to say why judgment should not be pronounced, and no sufficient cause to the contrary being shown or appearing to the Court,

It Is Adjudged that the defendant is guilty as charged and convicted.

It is Adjudged that the defendant is hereby committed to the custody of the Attorney General or his authorized representative for imprisonment for a period of ' five (5) years on Count One.

IT IS ADJUDGED that the defendant is committed to the custody of the Attorney General or his authorized representative for imprisonment for a period of five (5) years on Count Two; said sentence is to run consecutively to the sentence imposed on Count One.

It is/Adducted that the defendant is committed to the custody of the Attorney General or his authorized representative for imprisonment for a period of ten (10) years on each of Counts Three and Four; said sentences are to run concurrently with each other and consecutively to the sentence imposed on Count One. The aggregate sentence is, therefore, fifteen (15) years.

It is Ordered that the Clerk deliver a certified copy of this judgment and commitment to the United States Marshal or other qualified officer and that the copy serve as the commitment of the defendant.

United States District Judge.

The Court recommends commitment to

Clerk.

Insert "by Iname of counsel, counsel" or without counsel; the court advised the defendant of his rights to counsel and asked him whether he desired to have counsel appointed by the court, and the defendant thereupon stated that he waived the right to the assistance of counsel." Insert (1) "guilty and the court being satisfied there is a factual basis for the plea," (2) "not guilty, and a verdict of guilty," (3) "not guilty, and a finding of guilty," or (4) "nolo contendere," as the case may be. Insert "in count(s) number "if required Enter (1) sentence or sentences, specifying counts if any; (2) whether sentences are to run concurrently or consecutively and, if consecutively, when each term is to begin with reference to termination of preceding term or to any other outstanding unserved sentence; (3) whether defendant is to be further imprisoned until payment of the fine or fine and costs, or until he is otherwise discharged as provided by law. Enter any order with respect to suspension and probation. For use of Court to recommend a particular institution.

MAR 25 1976

Cr. Form No. 25

United States District Court

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FOR THE

MAR 25 3 43 PH '76

DISTRICT OF COMNECTICUT

U. S. DISTRICT COURT NEW HAVEN, CONN.

United States of America

v.

PETER BETRES

No. N-75-59 Criminal

On this 22nd day of March , 19 76 came the attorney for the government and the defendant appeared in person and ' by counsel

IT IS ADJUDGED that the defendant upon his plea of not guilty and the jury having returned a verdict of guilty has been convicted of the offense of violation of Title 18, Sections 371, 1952 844(d), 2 and violation of Title 26, Sections 5861(d) and 5271 (conspiracy, interstate travel to carry on an unlawful activity, interstate transportation of explosives and possession of an unregistered firearm)

as charged in Counts One through Four of the retyped four-count

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U. S. ATTORNEY'S OFFICE

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nd the court having asked the defendant whether he has anything to say why judgment should not be pronounced, and no sufficient cause to the contrary being shown or appearing to the Court,

IT Is ADJUDGED that the defendant is guilty as charged and convicted.

It is Adjudged that the defendant is hereby committed to the custody of the Attorney General or his authorized representative for imprisonment for a period of five (5) years on Count One.

IT IS ADJUDCED that the defendant is committed to the custody of the Attorney General or his authorized representative for imprisonment for a period of five (5) years on Count Two; said sentence is to run consecutively to the sentence imposed on Count One.

further IT Is/ADJUDGED that the defendant is committed to the custody of the Attorney General or his authorized representative for imprisonment for a period of ten (10) years on each of Counts Three and Four; said sentences are to run concurrently with each other and consecutively to the sentence imposed on Count One. The aggregate sentence is, therefore, fifteen (15) years.

IT IS ORDERED that the Clerk deliver a certified copy of this judgment and commitment to the United States Marshal or other qualified officer and that the copy serve as the commitment of the defendant.

United States District Judge.

The Court recommends commitment to 6

Clerk.

Insert "by iname of counsel, counsel" or without counsel; the court advised the defertant of his rights to counsel and asked him whether he desired to have counsel appointed by the court, and the count being satisfied stated that he waived the right to the assistance of counsel." "Insert (1) "guilty and the court being satisfied there is a factual basis for the piea," (2) "not guilty, and n verdict of guilty," (3) "not guilty, and n finding of guilty," or (4) "nolo contendere," as the case may be. Insert "in count(s) number "if required in Enter (1) sentence or sentences, specifying counts if any; (2) whether sentences are to run concurrently or consecutively and, if consecutively, when each term is to begin with reference to termination of preceding term or to any other outstanding unserved sentence; (3) whether defendant is to be further imprisoned until payment of the fine or fine and costs, or until he is otherwise discharged as provided by law. Enter any order with respect to suspension and probation. For use of Court to recommend a particular institution.

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JUDGMENT AND COMMITMENT (Rev. 2-68)

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DISTRICT C LARECTICUT

U. S. DISTRICT COURT NEW HAVEN, CONN.

United States of America

V.

ROMALD D. BETRES

No. N-75-59 Criminal

On this 22nd day of March , 19 76 came the attorney for the government and the defendant appeared in person and by counsel

It Is Adjudged that the defendant upon his plea of not guilty and the jury having returned a verdict of guilty has been convicted of the offense of violation of Title 18, Section 371, 1952 and 2, of the United States Code (conspiracy and interstate travel to carry on an unlawful activity)

as charged in Counts One and Two of the retyped four-count Indictment and having been acquitted as to Count Four

and the court having asked the defendant whether he has anything to say why judgment should not be pronounced, and no sufficient cause to the contrary being shown or appearing to the Court,

IT Is ADJUDGED that the defendant is guilty as charged and convicted.

IT IS ADJUDGED that the defendant is hereby committed to the custody of the Attorney General or his authorized representative for imprisonment for a period of five (5) years on Count One.

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U. S. ATTORNEY'S OFFICE NEW HAVEN, CONNECTICUT

further

IT IS/ADJUDGED that the defendant is committed to the custody of the Attorney General or his authorized representative for imprisonment for a period of five (5) years on Count Two; said sentence is to run consecutively to the sentence imposed on Count One. The aggregate sentence is, therefore, ten (10) years.

It is Ordered that the Clerk deliver a certified copy of this judgment and commitment to the United States Marshal or other qualified officer and that the copy serve as the commitment of the defendant.

United States District Judge.

The Court recommends commitment to

Clerk.

Insert "by [name of counsel], counsel" or without counsel; the court advised the defendant of his rights to counsel and asked him whether he desired to have counsel appointed by the court, and the defendant thereupon stated that he waived the right to the assistance of counsel." Insert (1) "guilty and the court being satisfied there is a factual basis for the plea," (2) "not guilty, and a verdict of guilty," (3) "not guilty, and a finding of guilty," or (4) "nolo contendere," as the case may be. Insert "in count(s) number "if required sentence or sentences, specifying counts if any; (2) whether sentences are to run concurrently or consecutively and if consecutively, when each term is to begin with reference to termination of preceding term or to any other outstanding unserved sentence; (3) whether defendant is to be further imprisoned until payment of the fine or fine and costs, or until he is otherwise discharged as provided by law. Enter any order with respect to suspension and probation. "For use of Court to recommend a particular institution.

MAR 25 1976

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United States District Court

FILED

DISTRICT OF CONNECTICUT

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United States of America

v

ALBERT R. COFFEY

U. S. DISTRICT COURT NEW HAVEN, CONN.

No. N-75-59 Criminal

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as charged in Counts One and Two of the retyped four-count Indictment and the Court having declared a mistrial as to Counts Three and Four

ascharged.

and the court having asked the defendant whether he has anything to say why judgment should not be pronounced, and no sufficient cause to the contrary being shown or appearing to the Court,

It Is ADJUDGED that the defendant is guilty as charged and convicted.

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MAR 2 6 1976

U. S. ATTORNEY'S OFFICE NEW HAVEN, CONNECTICUT

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